

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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Pursuant to Rule 56.1 of the Local Rules of the Southern District of New York, Plaintiff Securities and Exchange Commission (the “Commission” or “SEC”) respectfully submits this statement of undisputed material facts¹ as to which Plaintiff contends there is no genuine issue to be tried in support of its motion for summary judgment.²

A. Background

1. From 2006 to 2012, Defendant Christian Larsen (“Larsen”) was the co-founder and CEO of a startup company called Prosper Marketplace Inc., which the SEC sued for offering and selling unregistered investment contracts in violation of Section 5. PX 1 (Answer of Def. Christian

¹ This statement sets forth facts undisputed for purposes of this motion. The SEC does not necessarily concede each of these facts for all purposes in this action.

² Citations to PX 1 to PX 200 are to Exhibits to the Declaration of Ladan F. Stewart in Support of the SEC’s Motion for Summary Judgment dated September 13, 2022 (“Stewart Declaration”), submitted together herewith.

Citations to PX 201 to PX 400, PX 540, and PX 545 are to Exhibits to the Declaration of Mark. R. Sylvester in Support of the SEC’s Motion for Summary Judgment dated September 13, 2022, submitted together herewith.

Citations to PX 401 to PX 498, PX 515 to PX 523, and PX 541 to PX 544 are to Exhibits to the Declaration of Jorge G. Tenreiro in Support of the SEC’s Motion for Summary Judgment dated September 13, 2022, submitted together herewith.

Citations to PX 500 to PX 509 are to Exhibits to the Declaration of Daphna A. Waxman in Support of the SEC’s Motion for Summary Judgment dated September 13, 2022 (“Waxman Declaration”), submitted together herewith.

Citations to “[Last Name] Dep. Tr. __” or “[Last Name] Tr. __” or “[Last Name] Dep. __” are to the deposition transcripts, as indicated, of various witnesses, the full transcripts of which are also attached as Exhibits to the Stewart Declaration.

Citations to “[Last Name] Inv. Tr. __” are to the transcripts of the investigative testimony of various witnesses, taken during the SEC’s investigation into this matter before the filing of the complaint, the full transcripts of which are also attached as Exhibits to the Stewart Declaration.

Citations to “XQYY XRP Markets Report” are to the quarterly “XRP Markets Report” that Ripple published on its website starting in January 2017, indicating the number of the quarter and the year, the full copies of which are also attached as Exhibits to the Waxman Declaration.

Citations to other declarations and exhibits thereto follow the “[Last Name] Decl., Ex. __” format.

A. Larsen (D.E. 463) (“Larsen Ans.”) ¶ 18; SEC Order Instituting Proceedings Against Prosper Marketplace, Inc., dated Nov. 24, 2008) at § III; III.A, *available at* <https://www.sec.gov/litigation/admin/2008/33-8984.pdf>; PX 2 (Larsen Tr.) at 34:13-39:23.

(i) Ripple and XRP II, LLC

2. Ripple Labs, Inc. is a Delaware corporation with its principal place of business in San Francisco and an office in Manhattan. PX 80 (Amended Answer of Defendant Ripple Labs, Inc. (D.E. 51) (“Ripple Ans.”) ¶ 16.

3. Ripple’s predecessor entity, New Coin, Inc., was founded in September 2012. *Id.*

4. Ripple is a for-profit company that builds financial services products. It holds a digital asset today known as “XRP,” and as of 2020 was working on building a payment network. PX 3 (Griffin Inv. Tr.) at 17:13-17.

5. XRP II, LLC is Ripple’s wholly-owned subsidiary, was founded in 2013, and has been organized as a New York limited liability company since 2016. PX 80 (Ripple. Ans.) ¶ 19.

6. XRP II, LLC was formed by Ripple in July 2013 to sell units of XRP directly to institutional and other accredited investors in wholesale transactions. PX 4.

7. According to its application for a money services license to the New York State Department of Financial Services (“NYDFS”), XRP II has two business lines: (1) enterprise sales of XRP (*i.e.*, sales to institutional XRP investors) and (2) asset custody for registered/licensed investment funds. PX 5 at RPLI_SEC 0001157– 158, 0001169.

8. The people who created the XRP Ledger and XRP (defined below)—David Schwartz (“Schwartz”) and Arthur Britto (“Britto”)—are also part of the group that founded Ripple. PX 6 (Schwartz Dep. Tr.) at 23:20-24:10, 43:17-24, 53:2-13, 55:23-56:13; PX 501.121, *available at* <https://twitter.com/joelkatz/status/1306438693176049665>.

9. In addition to Schwartz and Britto, that group of founders consists of Jed McCaleb (“McCaleb”) (who also helped create XRP and the XRP Ledger) and Defendant Larsen. PX 7 (Schwartz Inv. Tr.) at 13:16-21, 20:13-22:21.

(ii) Ripple’s Founders Create XRP, the XRP Blockchain, and Ripple.

10. In 2012, McCaleb, Britto, and Schwartz programmed a cryptographically-secured blockchain they called the Ripple Network or Ripple Protocol (now the “XRP Ledger”), which records transactions and exists across a network of peer to peer servers. PX 80 (Ripple Ans.) ¶¶ 38, 39; PX 8 (Resps. and Objs. of Def. Ripple Labs, Inc. to Pl.’s First Set of Requests for Admissions (“Ripple RFA Responses”)) Nos. 1, 2.

11. The “XRP Ledger” is a digital ledger that tracks accounts and balances, including for “XRP.” It contains a native digital asset and has similar principles to a “blockchain.” PX 6 (Schwartz Dep. Tr.) at 28:3-28:20; PX 7 (Schwartz Inv. Tr.) at 10:23-11:1, 13:22-24.

12. The term “blockchain” generally refers to groups or “blocks” of data, each of which includes accounts, balances, and transactions, which are tied together in a “chain,” meaning that every block has a cryptographically secure reference to the prior block. PX 6 (Schwartz Dep. Tr.) at 28:6-20.

13. The code for the XRP Ledger was written by Schwartz and Britto, with McCaleb leading the project and also writing some of the code for the XRP Ledger. PX 7 (Schwartz Inv. Tr.) at 11:23-13:21.

14. Schwartz, Britto, and McCaleb also created 100 billion units of a “native token,” which has been previously called Ripple Credits (or “Ripples”) and today are called XRP. PX 8 (Ripple RFA Responses) ¶¶ 1, 3; PX 80 (Ripple Ans.) ¶¶ 48, 49; PX 6 (Schwartz Dep. Tr.) at 25:22-26:7.

15. Larsen retained 9 billion units of the XRP created, McCaleb retained 9 billion units of the XRP created, Britto retained 2 billion units of the XRP created, and Ripple retained the remaining 80 billion units. PX 1 (Larsen Ans.) ¶¶ 18, 20; PX 80 (Ripple Ans.) ¶¶ 18, 20, 22, 46; PX 2 (Larsen Dep. Tr.) at 67:18-20.

16. “XRP” is a unit of value that resides within the XRP Ledger and is the ledger’s native token. PX 6 (Schwartz Dep. Tr.) at 22:22-23:2.

17. XRP is divisible up to six (6) decimal points (or into one million subunits), meaning the smallest unit of XRP is 0.000001 XRP, also known as a “drop” of XRP. PX 6 (Schwartz Dep. Tr.) at 25:22-26:7, 323:15-22.

18. Each unit of XRP is indistinguishable from and fungible with any other unit, and each drop of XRP is indistinguishable from and fungible with any other drop. PX 8 (Ripple RFA Responses) Nos. 24, 25.

19. In order to transact on the XRP Ledger, one must “burn,” or destroy, 10 or 20 one-millionths of XRP. PX 6 (Schwartz Dep. Tr.) at 35:16-36:19, 323:9-22; PX 7 (Schwartz Inv. Tr.) at 18:12-20:4, 26:23-27:9.

20. At its inception, the 100 billion XRP created was a fixed, finite supply, meaning that “no more [XRP] can ever be ‘printed,’” a fact which Ripple stated publicly. PX 9 at RPLI_SEC 539481, 539487; PX 501.13 (4Q19 Market Report) at 1 (stating “100 billion units of XRP were created, with the stipulation that no more XRP will ever be created”); PX 10 (Rapoport Tr.) at 185:21-186:22.

21. When asked if more XRP could be created, Ripple Chief Technology Officer (“CTO”) David Schwartz responded: “Not easily. It’s a software defined system. So if you could get all of the people using the system to agree to change the software, nothing would prevent them

from doing that. But there's no defined process to do such a thing." According to Schwartz, the result of this approach is that "it's extremely unlikely" any more XRP will be created and "every effort has been made to make it as difficult as possible to do that." Schwartz noted that Ripple had made "statements to the effect that systems' rules don't allow additional XRP to be created." PX 7 (Schwartz Inv. Tr.) at 14:13-15:14.

22. Schwartz has an online pseudonym, Joel Katz, and he publicly explains Ripple's plans from time to time. PX 6 (Schwartz Dep. Tr.) at 43:25-44:20.

23. Schwartz admits that he explains information about Ripple publicly because it is something he "should do" as a "well known employee of the company." PX 6 (Schwartz Dep. Tr.) at 100:23-101:2.

24. Schwartz stated in a tweet on or about March 7, 2020 that "[t]here's no mechanism in the software to create XRP and safeties prevent it from being created by a bug or trick." PX 506.120, *available at* <https://twitter.com/JoelKatz/status/1236389439221297152>).

25. Ripple's proffered expert, Carol Osler, states that "[t]he long-term supply of XRP is limited to the 100 billion already in existence. No additional units of XRP can be created without changing the XRP ledger itself." PX 11 (Expert Report of Carol Osler ("Osler Rep.") at 8.

26. To make changes on the accounts and balances tracked on the XRP Ledger, at least certain of the "nodes" on the XRP Ledger have to agree as to what accounts and balances any potential new iteration (or "state") of the ledger will recognize. PX 9 at 0539475; PX 12 (Expert Report of [REDACTED]) at 19-22; PX 513.

27. The XRP Ledger has previously been known as the "Ripple Consensus Ledger" or the "Ripple ledger." PX 7 (Schwartz Inv. Tr.) at 10:3-19.

28. In the context of the XRP Ledger, a “validator” is a node that coordinates with other nodes in the “consensus process” for the XRP Ledger, *i.e.*, the process by which nodes connected to the ledger come to agreement on a single view on what transactions on the XRP Ledger becomes accepted as the XRP Ledger adds blocks to its chain. PX 6 (Schwartz Dep. Tr.) at 30:1-31:25, 117:1-118:4.

29. As it was programmed, the XRP Ledger’s “consensus process” requires that a particular node on the ledger have a “unique node list” or “UNL,” which is the list of nodes whose proposed transactions on the XRP Ledger will “trust” when that node is determining what new state of the XRP Ledger it will agree to. PX 6 (Schwartz Dep. Tr.) at 30:1-31:25, 125:8-13.

30. When the XRP Ledger launched, only three validator nodes—all operated by Ripple—confirmed transactions on the XRP Ledger. PX 6 (Schwartz Dep. Tr.) at 33:22-34:9.

31. From the inception of the XRP Ledger until June 2018, all XRP Ledger validators and their servers were based in the U.S. From June 2018 to December 22, 2020, the majority of XRP Ledger validators and those validators’ servers were located in the U.S. PX 13 (Rebuttal Report of [REDACTED]) ¶ 136 & Figure 20 & Appendix; PX 511.

32. The XRP Ledger was launched publicly sometime in late 2012 or early 2013. PX 6 (Schwartz Dep. Tr.) at 25:3-7.

33. When the XRP Ledger launched publicly, the only thing one could do with XRP was “burn” XRP to confirm transactions on the XRP Ledger, relying on the infinitesimal amounts of XRP required to do so—described by Ripple’s chief programmer Schwartz as a “microscopic fraction of a penny.” PX 7 (Schwartz Inv. Tr.) at 60:12-25, 74:9-20.

34. XRP has been referred to as “Ripples” and as “Ripple credits.” PX 6 (Schwartz Dep. Tr.) at 110:8-12; PX 63.

35. As of the date of David Schwartz’s deposition in May 2021, Ripple held approximately 50 billion of the 100 billion XRP created. PX 6 (Schwartz Dep. Tr.) at 23:10-13.

36. As of the date of David Schwartz’s deposition in May 2021, Ripple was still the largest single holder of XRP. PX 6 (Schwartz Dep. Tr.) at 143:5-7.

37. Ripple’s cost basis in the 80 billion units of XRP Ripple had from its inception was zero—Ripple did not have to expend any funds to purchase or obtain the XRP. PX 7 (Schwartz Inv. Tr.) at 81:1-82:21.

38. Ripple has a reputational and financial interest in the XRP Ledger functioning properly. PX 6 (Schwartz Dep. Tr.) at 126:9-127:5, 169:8-170:5.

39. As of the date of Schwartz’s deposition in May 2021, there was no expectation from individuals who follow the digital asset space that Ripple would walk away from its efforts to maintain the XRP Ledger. PX 6 (Schwartz Dep. Tr.) at 194:9-196:4.

40. Schwartz first was Ripple’s chief cryptographer until July 2018 and as of his deposition in May 2021 was its chief technology officer. PX 7 (Schwartz Inv. Tr.) at 8:4-9:5; PX 6 (Schwartz Dep. Tr.) at 19:22-20:4; PX 80 (Ripple. Ans.) ¶ 21.

41. In September 2012, McCaleb, Britto, and Larsen founded “NewCoin, Inc.” or “OpenCoin,” Defendant Ripple’s predecessor, and Larsen served as Ripple’s CEO (a post he held until December 2016). PX 80 (Ripple Ans.) ¶¶ 16, 18, 20, 44; PX 94 (Ripple RFA Responses) No. 719; PX 2 (Larsen Tr.) at 49:16-50:18; PX 6 (Schwartz Dep. Tr.) at 43:17-20, 53:2-13, 55:23-56:13.³

³ Schwartz is referred to in the SEC’s Amended Complaint (D.E. 46) as “Cryptographer-1.” Britto is referred to in the SEC’s Amended Complaint as “Co-Founder.” McCaleb is referred to as “Ripple Agent-1” and Griffin is referred to as “Ripple Agent-3.” Miguel Vias, described below, is referred to as “Ripple Agent-2.” See also PX 80 (Ripple Ans.) ¶¶ 20-22.

42. Defendant Brad Garlinghouse (“Garlinghouse”) joined Ripple as its Chief Operating Officer (“COO”) sometime in 2015 and became its CEO on January 1, 2017. PX 201 (Garlinghouse Ans.) ¶ 17; PX 80 (Ripple Ans.) ¶¶ 6, 17.

43. Garlinghouse—the self-described “face” of Ripple and its “most important spokesperson” appeared about twice a month on major news networks like CNBC and CNN, while using his increasing Twitter following to amplify Ripple’s message. PX 36 (Garlinghouse Inv.) 39:25-47:1, 50:19-52:21; PX 503.06, PX 503.10, PX 503.21, PX 503.23.

(iii) Certain Other Ripple Employees

44. Patrick Griffin (“Griffin”) worked at Ripple from 2013 to 2018, at all times was one of its most senior executives, and one of his duties including managing Ripple’s XRP sales, and always reported directly to Larsen or Garlinghouse. PX 14 (Griffin Dep. Tr.) at 19:18-21:6, 74:23-76:20, 336:4-6; PX 3 (Griffin Inv. Tr.) at 29:24-30:25, 38:4-23.

45. Griffin’s official titles included Executive Vice President of Business Development and Senior Vice President of Business Development. PX 80 (Ripple Ans.) ¶ 24.

46. Asheesh Birla (“Birla”) started at Ripple in 2013, was one of its longest-tenured employees, his responsibilities at times included being the head of developing Ripple products, and he always reported directly to Larsen or Garlinghouse. PX 15 (Birla Dep. Tr.) at 18:11-20:25; PX 16 (Birla Inv. Tr.) at 37:24-39:9.

47. Monica Long (“Long”) started at Ripple in 2013 as director of communications, is one of its longest-tenured employees, and later was promoted to vice-president of marketing, and was responsible for both internal and external communications for Ripple, reporting at all times directly to Larsen or Garlinghouse. PX 17 (Long Tr.) at 12:13-13:3, 18:1-20:20, 29:17-21.

48. Phil Rapoport (“Rapoport”) worked as a consultant for Ripple in the summer of 2013 then as a full-time employee from 2013 to 2015, with the title “director of markets and trading” and later “head of markets and trading,” reporting at all times directly to Griffin. PX 10 (Rapoport Tr.) at 26:22-27:41, 36:3-37:6.

49. Antoinette O’Gorman (“O’Gorman”) was Ripple’s Bank Secrecy Act officer and Chief Compliance Officer from February 2015 through May 2018, always reporting directly either to Larsen or Garlinghouse. PX 18 (O’Gorman Tr.) at 26:7-26:9, 32:18-35:25.

50. Ryan Zagone (“Zagone”) joined Ripple in late 2014 and was its head of business development, reporting to Griffith, and became the director of regulatory relations in 2015, a job he had through July 2019, while reporting to O’Gorman. PX 19 (Zagone Tr.) at 19:17-20, 24:11-26:20.

51. Miguel Vias (“Vias”) worked at Ripple November 2016 to April 2020 as its head of XRP markets, reporting to Griffin and others, whose job goal was to grow liquidity in XRP. PX 20 (Vias Inv. Tr.) at 26:6-27:15; PX 21 (Vias Dep. Tr.) at 35:4-19, 85:11-14.

52. Dinuka Samarasinghe (“Samarasinghe”) was Ripple’s senior manager for XRP markets from June 2017 until late 2020, reporting either to Vias or Breanne Madigan. While in that role, he managed programmatic sales, helped build out XRP over-the-counter trading and developing XRP lending programs. Before working for Ripple he worked for [REDACTED] [REDACTED] one of the market makers Ripple hired to sell XRP, and after leaving Ripple in 2020, he began working at GSR, another market maker Ripple hired to sell XRP. PX 22 (Samarasinghe Tr.) at 25:1-28:7, 31:5-33:25, 34:09-35:8.

53. Ron Will (“Will”) was Ripple’s CFO from November 2017 through September 2020, reporting at all times directly to Garlinghouse. PX 23 (Will Dep.) at 14:14-22, 105:3-6.

54. Ethan Beard (“Beard”), who was employed by Ripple from 2018 through 2020 as Senior Vice President heading up an initiative called “xPring,” described below, and reported at all times directly to Garlinghouse. PX 24 (Beard Tr.) at 37:5-17, 41:9-15.

55. Breanne Madigan (“Madigan”) started working at Ripple in May 2019 as its global head of institutional markets during which time she reported to Long and Garlinghouse. PX 25 (Madigan Tr.) at 20:1-21:9.

(iv) Ripple’s Principal Market Maker

56. GSR Markets is a firm that engages in algorithmic trading “that specializes in crypto,” and has had a relationship with Ripple since the fourth quarter of 2013, providing a variety of services, including selling XRP on behalf of Ripple in exchange for cash; [REDACTED] is one of GSR’s founders and its Chairman, and been employed by GSR since 2013. PX 26 ([REDACTED] Tr.) at 11:22-12:6, 27:6-9, 29:21-36:23, 50:6-51:13; PX 85 (Ripple RFA Responses) No. 566; *see also* LinkedIn, [REDACTED]
[REDACTED]

B. Ripple’s Ambitious Plans for Its Technology

57. In 2013 and 2014, one of Ripple’s business goals was to create value for XRP by the “digitization of as many assets as possible” on the XRP Ledger, or by getting “all sorts of digital payment types” to occur on the XRP Ledger. PX 3 (Griffin Inv. Tr.) at 58:11-61:10.

58. A January 2020 presentation for Ripple’s Board of Directors (“Board”), entitled “2020 Annual Plan,” which was prepared by Ripple’s employees, agents, or personnel, and contained truthful and accurate information, stated that Ripple was “more confident than ever that the *Internet of Value – enabling the world to move value like information moves today* – is a huge vision that will create value both for Ripple and its customers” and that “*enabling payments*

everywhere, every way, for everyone is the right place to start.” PX 84 (Ripple RFA Responses) Nos. 650-51; PX 27 at RPLI_SEC 477677.

59. Sometime in 2013, Rapoport put together a document called “Ripple: A Primer” (the “Primer”), which was a document to “explain the very basic concepts of the Ripple technology” and was aimed at “financial institutions.” PX 10 (Rapoport Tr.) at 61:20-66:18 (testifying about PX 28, PX 29, PX 30).

60. In approximately August or September 2014, Ripple employees created an “industry report” “to clarify Ripple’s role in the financial ecosystem.” The title of the document was “The Ripple Protocol: A Deep Dive For Financial Professionals,” and it was accessible through Ripple’s website at the address <https://ripple.com/ripple-deep-dive/> (the “Deep Dive”). PX 9 at RPLI_SEC 539461, 465; PX 31 at RPLI_SEC 842467.

61. The Deep Dive stated that Ripple was attracting a “diverse set of talented individuals with experience in relevant technology and financial services companies” to help pursue its business plans, and that Ripple’s “business model [was] predicated on a belief that demand for XRP will rise (resulting in price appreciation) if the Ripple protocol becomes widely adopted.” PX 9 at RPLI_SEC 539481, 539487.

62. According to Larsen, the objective of Ripple at its inception, when it was OpenCoin, was to “build a team that can develop applications across a number of different technologies,” to develop applications that had market fit, all of which would require “domain expertise in technology, compliance and capital markets” which Ripple would acquire by “hiring team members.” PX 2 (Larsen Dep. Tr.) at 163:21-165:5, 185:12-19, 187:24-188:8.

63. Ripple admits that it “has worked to develop products that utilize XRP to allow financial institutions to effect currency transfers.” PX 80 (Ripple Ans.) ¶ 67.

64. Ripple admits that it launched an initiative to “support development of new applications of XRP and the XRP Ledger.” *Id.* ¶ 147.

65. Larsen testified that in the early years, part of what Ripple was doing was developing products that would use XRP. PX 2 (Larsen Dep. Tr.) at 187:15-22.

66. Birla testified about efforts that Ripple undertook to develop uses for XRP and the XRP Ledger in 2013 and 2014, including to develop applications for bridging conversions of one “fiat” currency (the circulating currency of a country, such as the U.S. Dollar) into another. PX 15 (Birla Dep.) at 250:14-259:2.

67. Zagone admitted that Ripple was promoting products, including payment networks, that “used XRP as a liquidity tool.” PX 19 (Zagone Dep. Tr.) at 67:13-20.

68. In its 2020 Annual Plan, presented to the Ripple Board in January 2020, Ripple continued to discuss its objectives of, and its planned expenditure of budget resources to, continuing to “Drive XRP velocity” through a Ripple software platform, and “Creat[ing] use cases on RippleNet that increase XRP’s utility” in addition to that software platform. PX 27 at RPLI_SEC 477680, 477705.

(i) Starting in 2013, Ripple Stated, Both Internally and Externally, that an Increase in “Use” Could Increase the Demand for, and the Trading Volume and Price of, XRP.

69. For example Schwartz admitted that he had and continues to hold a view that increasing use cases for XRP could lead to an increase in the demand for XRP and that Ripple continued to be engaged in such efforts up to the day of his deposition. PX 6 (Schwartz Dep. Tr.) at 349:3-350:1.

70. In public statements, Schwartz explained that if “XRP has more utility and more people are aware of the utility and more people are using the XRP Ledger, that will generate demand that will affect the price.” PX 7 (Schwartz Inv. Tr.) at 132:3-20.

71. Griffin testified that in 2013, Ripple believed that the more use, or “utilization,” of the system, the more volume would accrue to XRP, which would, given the fixed supply of XRP, increase its price, and that he personally worked on finding use cases that would increase adoption of Ripple’s technology, because the more XRP was used “the more valuable and useful” it would become. PX 14 (Griffin Dep. Tr.) at 104:12-105:20, 138:6-139:2; 298:19-299:5.

72. In 2013, Ripple pitched to outside potential investors its business model as: if the Ripple network “takes off there’s a possibility that the asset [XRP] will gain in value” which would “be accredited to the asset holdings of Ripple Inc.” PX 3 (Griffin Inv. Tr.) at 48:11-50:8.

73. In the Primer, Ripple explained that it hoped to “make money from XRP if the world finds the Ripple network useful and broadly adopts the protocol” and that Ripple was going to “retain a portion of” XRP “with the hope of creating a robust and liquid trading marketplace in order to monetize” XRP “sometime in the future.” PX 30 at RPLI_SEC 337841; PX 10 (Rapoport Tr.) at 77:6-17, 144:7-18 (admitting accuracy of this statement through his employment at Ripple and his belief that efforts could increase XRP’s price).

74. Rapoport testified that Ripple had a “vision,” as reflected in the Primer, that “if the technology was adopted broadly, there may be an increase in the price of XRP, which would benefit the company as a holder of XRP.” PX 10 (Rapoport Tr.) at 77:6-78:15.

75. The Deep Dive explained the several potential “Sources for XRP Demand,” including two sources that Ripple would work to increase—demand for products and services that operate on the XRP Ledger and demand if “XRP becomes more useful as a bridge currency,” and

that “[i]f the Ripple protocol becomes the backbone for global value transfer, Ripple expects the demand for XRP to be considerable,” and tying this concept to the “market capitalization” of XRP. PX 9 at RPLI_SEC 539487-489.

76. Rapoport also testified that the contents of the “Sources of XRP Demand” portion of Ripple’s Deep Dive were accurate and reflected Ripple’s plans to “further develop the Ripple protocol [which] ... may result in demand for XRP and that asset on Ripple Labs’ balance sheet may appreciate,” and that these explanations were written to answer frequent questions that came up during meetings. PX 10 (Rapoport Tr.) at 194:16-201:6.

77. On or about August 8, 2016, Schwartz posted on XRP Chat, an online forum described as “The Largest XRP Crypto Community Forum,” <http://www.xrpchat.com>, that for Ripple: “Holding on to sufficient XRP was essential to ensure the company would eventually be able to monetize any significant increase in the price of XRP that it was able to achieve.” PX 508.05, *available at* <https://www.xrpchat.com/topic/1794-how-did-the-vcs-value-ripple-labs/?do=findComment&comment=16496>.

78. Vias admitted that when he joined Ripple the price of XRP was below a penny but that the company believed that XRP “[o]ver time ... would increase in price as it gained in adoption,” and expressing his opinion that the increase in price of XRP in late 2017 was not due to Ripple’s “primary use case” but the “general idea that over time as [XRP] became more useful...and possibly used for other things besides this particular use case, there could be appreciation.” PX 21 (Vias Inv. Tr.) at 184:18-185:4, 189:7-190:4.

79. In an October 2017 email, Vias told Griffin and others at Ripple that “XRP has been on quite a roll,” referring in part to its “+10.2%” price movement in 24 hours, and explaining “we

think the primary driver of that rally was anticipation around commercial use of XRP and xRapid” as well as another set of announcements by Ripple. PX 32 at RPLI_SEC 645510-511.

80. Ripple’s CFO Ron Will admitted that in his view, increasing the demand for an asset like XRP “will increase the price of the asset,” and that over his “time at Ripple,” starting in 2018, one of the company’s business strategies “was to make sure there was liquidity and utility for XRP, and that would drive the value of XRP.” PX 23 (Will Tr.) at 220:21-221:20, 254:10-21.

81. In July 2019, Ripple employees discussed with a U.S.-based crypto exchange the belief that, with respect to a software product Ripple was developing, “volumes also drive market demand and speculative interest” for XRP onto the order books of digital asset trading platforms. PX 33 at RPLI_SEC 223540.

82. Zagone admits that he understood that an increased use of XRP would result in an appreciation in its value, and that “greater adoption” of XRP leads to “greater demand,” which is a factor in XRP’s price. PX 19 (Zagone Tr.) at 64:21-65:19.

83. On or about November 12, 2017, in public statements on the online forum Quora, a social question and answer website based in California, Schwartz stated:

If Ripple is successful getting XRP used as an vehicle asset in international payments, new corporates like Uber and AirBNB (who make payments all over the globe and want to make them as quickly and cheaply as possible) could significantly add to the demand for XRP...These forces could be expected to increase the price of XRP. This same logic can apply to all kinds of companies that make payments around the world. At least, that’s what Ripple’s betting on. After all, the reason we’re doing this is to increase demand for XRP to increase the value we can extract from our stash of XRP.

PX 509.01, *available at* <https://www.quora.com/Considering-that-the-banks-dont-use-XRP-coins-for-their-transactions-how-can-the-XRP-price-go-high-even-if-the-banks-adopt-the-Ripple-platform;>

PX 7 (Schwartz Inv. Tr.) at 119:20-121:24.

(ii) Ripple Did Not Pursue Developing a “Use” for XRP as a “Currency” that Could Substitute “Fiat” Currencies or a Retail “Use Case.”

84. Ripple did not actively pursue a “use case” for XRP as a currency used to buy goods and services and has not promoted XRP as a currency used to buy goods and services. PX 6 (Schwartz Dep. Tr.) at 67:7-73:7; 77:7-79:18; 99:20-25; PX 508.04 at 12-13; PX 508.04.

85. On or about November 12, 2019, in an interview sponsored by the Fintech Forum, Garlinghouse stated:

I don’t typically refer to XRP as a cryptocurrency, and frankly I don’t refer to Bitcoin as a cryptocurrency also because I did happen to go to Starbucks earlier today, and it’s about two stores over, and I used, actually I used a Visa card to pay for it. I could have used my Starbucks app, I could have used dollars. But the challenge sometimes in Silicon Valley is the echo chamber I was referring to earlier. You have technologies in search of a problem versus a problem in search of a technology. I think for tier one economies, let’s say the G-20, it’s not clear to me that the currencies in those markets - you know, the dollar works well, the yen works well. I don’t see these things as penetrating consumer use cases at scale anytime soon.

PX 503.19, *available at* <https://rollcall.com/events/fintech-week-2019/>.

86. On or about October 8, 2019, in an interview at the Economic Club of New York and in response to a question “about how somebody used Ripple to buy or sell something?” Garlinghouse stated that this was not what XRP was for, explaining: “XRP, in my judgment, and really any crypto, I don’t think the use case is a consumer use case today.” PX 503.18, *available at* <https://econclubny.org/documents/10184/109144/2019GarlinghouseTranscript.pdf>.

87. Madigan testified that as of May 18, 2021, one still could not buy coffee with crypto. PX 25 (Madigan Tr.) at 401:4-14.

88. Larsen never restricted his sales of XRP to people who “had a use for XRP”; “wish[ed] to use XRP as a medium of exchange”; “wish[ed] to use XRP as a store [of] value”;

“wished to use XRP as a unit of account”; or those who “wish[ed] to use XRP for cross-border payments.” PX 2 (Larsen Dep.) 149:16-150:20.

89. In September 2016, XRP had “limited commercial use” and was “mainly held as a speculative investment by companies and individuals that expect it to rise in value as the Ripple network expands.” PX 47 at 0532020, 27.

90. In an interview on or about March 14, 2018, Garlinghouse stated:

I almost never use the expression cryptocurrency. And the reason is today, these aren’t currencies. I can’t go down to Starbucks and buy a coffee with Bitcoin. I can’t buy -- I can’t buy coffee with XRP. I’m using Starbucks as a random example. Currencies, traditionally, are something you can use to transact efficiently and broadly. Very few people, even in the crypto community have used the, you know, Bitcoin or XRP to buy something. That doesn’t mean that they won’t ever be currencies, but today I call them digital assets because that’s I think what they are.

PX 503.13, *available at* <https://www.youtube.com/watch?v=JOAuXEYu9Pg>.

91. In an interview on or about October 8, 2019, Garlinghouse stated:

XRP, in my judgment, and really any crypto, I don’t think the use case is a consumer use case today... You know I imagine some percentage of people in the room before coming this morning stopped at Starbucks and you had no trouble paying. You used a Visa, maybe you had dollars in your pocket, I don’t know. But it worked. And so when people talk about using crypto for a consumer use case, I go to the, well, what problem are we trying to solve? You know if there’s not a problem, then like let’s not force change. People aren’t going to adopt a new thing unless it’s helping you in some way. So I think in First World countries like the United States, the euro, the yen, the dollar, the RMB, I don’t see the consumer use case for crypto anytime soon.

PX 503.18, *available at* <https://www.youtube.com/watch?v=1U6ZiOyX2TA>

92. On or about July 7, 2017, in a post on Reddit, Schwartz stated: “Ripple, the company, is not pursuing a “retail” use case for XRP. There are a lot of reasons for this but from my point of view, the biggest ones are the legal obstacles. See, for example:

<https://www.federalreserve.gov/bankinfo/reg/regecg.htm> Other companies are, of course, free to pursue whatever use cases for XRP and Ripple’s public ledger that they wish. XRP has sufficient

value and liquidity to be used for many applications beyond the use cases Ripple is focusing on. Compared to the other major cryptocurrencies, XRP provides faster confirmations, higher transaction volumes, and lower transaction costs. It doesn't support on-chain smart contracts like Ethereum does, but it does support a native distributed exchange, powerful cross-currency payments, token issuance, and sophisticated account and asset security features like native multisign, rotatable keys, and so on. One big thing that we do lack is a robust ecosystem of developers working on a variety of different use cases." PX 509.32, *available at* https://www.reddit.com/r/Ripple/comments/6lv8r0/how_ripple_supposed_to_be_mass_adopted_without_a/djwut3a/.

(iii) Ripple's Business Plans Were Ambitious and Expensive.

93. Larsen admitted his and Ripple's understanding since 2013 that Ripple's ideas to develop applications that could use XRP involved "extremely complex technologies that would take a lot of resources to produce" and that each application could be "extremely expensive," costing in the tens of millions of dollars. PX 2 (Larsen Tr.) at 186:21-190:6.

94. Ripple attempted to develop XRP as a bridge currency for banks, but this potential "use" did not actually come to fruition. PX 6 (Schwartz Dep. Tr.) at 41:22-43:16.

95. Ripple has never earned revenue from anyone "using" XRP to move between assets on the XRP Ledger. PX 6 (Schwartz Dep. Tr.) at 97:14-99:2.

96. Birla, Ripple's head of product development, admitted that "[d]eveloping products for financial institutions is ... super complicated, [and] ... very resource-intensive," that "the global nature of [Ripple's] business and the unfamiliarity with local markets and participants ... adds an additional layer of complexity into building a product," and that building a particular Ripple product

required “a lot of work and effort,” including a number of “product managers and engineering resources.” PX 15 (Birla Dep. Tr.) at 140:13-23, 166:9-167:3, 236:5-21.

97. On or about April 30, 2018, Garlinghouse wrote an email in which he stated that Ripple’s “vision for XRP is ambitious,” and that “it’s the right time to aggressively encourage the growth of new businesses and use cases for XRP alongside RippleNet.” PX 34 at RPLI_SEC 624456.

98. On or about October 18, 2017, in a video posted by Ripple on its YouTube channel, Garlinghouse stated: “I have no qualms saying definitively if we continue to drive the success we’re driving, we’re going to drive a massive amount of demand for XRP because we’re solving a multitrillion dollar problem.” PX 503.04, *available at* <https://www.youtube.com/watch?v=bXYvGVcAwcQ>.

99. On or about December 27, 2017, in an interview with Bloomberg, Garlinghouse stated: “Ripple has been very focused on, how do we create real utility, and solve a real problem? And in this case, it’s for cross border payments, which is a multi-trillion dollar problem.” PX 503.08, *available at* <https://www.youtube.com/watch?v=5TtaF3D6G2Y>.

100. On or about March 12, 2018, in an interview on Bloomberg, Garlinghouse stated: “From the get go, Ripple has worked with regulators. And we have worked with regulated institutions. . . we have found that part of the reason why XRP has performed well, is because people realize. . . if we work with the system to solve this problem, and we can solve that problem at scale, a problem measured in the trillions of dollars, then there is a lot of opportunity to create value in XRP.” PX 503.12 at 5:8-5:19, *available at* <https://www.youtube.com/watch?v=8s11kNLXXAU>.

101. Garlinghouse's reference to the "trillion dollar" problem was a reference to the amount of capital "financial institutions move" through the financial system, which Ripple was hoping to attract to his technology. PX 81 (Garlinghouse Dep. Tr.) at 439:7-439:24.

102. [REDACTED] worked for Ripple as Chief Technology Officer from June 2012 through May 2018. *See* [REDACTED], Founder & CEO, LinkedIn, *available at* [REDACTED]

103. On or about May 21, 2013, [REDACTED] emailed McCaleb and Griffin and explained his view that OpenCoin [Ripple's predecessor] was uniquely positioned to "maximize XRP's value," that it would be able to sell XRP to fund its business, and that OpenCoin will "need to spend a billion dollars ... to succeed." PX 35 at RPLI_SEC 322029-030.

(iv) Ripple's Business Plans Could Not Be Achieved Absent an XRP Trading Market, Including Liquidity and Speculators.

104. When XRP was created it had no trading market and no trading price. PX 7 (Schwartz Inv.) at 60:2-25.

105. When Griffin joined Ripple in 2013 there was a "very small" XRP market as measured by volume and price, but he and the company's founders had an "aspirational" view that one day there could be a market. PX 14 (Griffin Dep. Tr.) at 102:21-103:12.

106. When Rapoport joined the company in 2013, any trading market in XRP was "de minimis," and the price of XRP was "fractions of a penny." PX 10 (Rapoport Tr.) at 50:16-51:15.

107. When Vias joined the company in late 2016, the XRP trading "volume was minuscule," XRP "wasn't [listed] on many platforms," and "the price was ... half a penny." PX 21 (Vias Inv. Tr.) at 15:17-16:7.

108. Garlinghouse admitted that at the beginning of the Ripple Ledger "[t]here was no way to use XRP." PX 36 (Garlinghouse Inv. Tr.) at 186:17-187:4.

109. Ripple “admits that the existence of a market for XRP against those certain fiat currencies was required for the operation of” a software product Ripple developed, called “On-Demand Liquidity” or “ODL.” PX 8 (Ripple RFA Responses) No. 100.

110. Garlinghouse admitted that Ripple has made efforts to get XRP listed on digital asset trading platforms because liquidity between XRP and various fiat currencies around the world was a “precondition” to Ripple’s product strategy. PX 14 (Garlinghouse Dep. Tr.) at 298:25-299:19.

111. On or around April 9, 2017, Garlinghouse emailed Ripple’s Board members that a recent “dramatic spike in XRP price and market activity” was the “most significant” development for Ripple in the past quarter, and that “[s]peculative and market trading volume build[] [the] liquidity” needed for Ripple’s planned use for XRP, such that speculative and market trading volume are the “catalyst to the XRP flywheel.” PX 37 at RPLI_SEC 352161.

112. On or about October 19, 2019, Garlinghouse stated in an interview: “You know, on XRP itself, and really I would say crypto broadly, I have publicly said before, you know, 99.9 percent of all crypto trading is speculation today. The amount of real utility you’re talking about is very, very low and I – that’s true within the XRP community, as well.” PX 503.25, *available at* <https://www.youtube.com/watch?v=xTsRJNxsqco>.

113. Schwartz understands that speculative and market trading volume build the liquidity of the XRP market. PX 6 (Schwartz Dep. Tr.) at 267:6-10.

114. Schwartz admitted that Ripple cares for there to be a market for XRP so that Ripple’s software products work. PX 6 (Schwartz Dep. Tr.) at 216:11-217:6.

115. Schwartz admitted that in May 2021 “a major focus” at Ripple was ensuring the existence of “liquidity” in certain trading pairs, including XRP to U.S. Dollars, because Ripple’s product “won’t work without that liquidity.” PX 6 (Schwartz Dep. Tr.) at 242:9-243:22.

116. Schwartz admitted that the “price and market activity of XRP affects people’s ability to use it ... as an intermediary asset.” PX 6 (Schwartz Dep. Tr.) at 264:8-25.

117. On or about May 12, 2013, Schwartz posted on “Bitcoin Forum,” an online chat forum with various message boards discussing topics relating to crypto assets, <https://bitcointalk.org>, that Ripple was “legally obligated to maximize shareholder value,” which with Ripple’s then-current “business model” meant “acting to increase the value and liquidity of XRP,” which would happen if the “Ripple network is widely adopted,” an outcome Ripple was “pursuing.” PX 507.04, *available at* <https://bitcointalk.org/index.php?topic=148278.msg2123720#msg2123720>.

118. Griffin admitted that the depth of liquidity in the XRP market was a “function of usefulness,” and that there needed to be liquidity to “take advantage” of Ripple’s “large holdings” of XRP. PX 3 (Griffin Inv. Tr.) at 51:12-53:12, 212:8-24.

119. Griffin admitted that Ripple’s ideas for XRP-related products to work require “a healthy and robust market of trading price discovery for XRP and that requires market participants like market makers to be actively in the system buying and selling and making markets for – against XRP,” and he admits that throughout his tenure at Ripple he and others took steps to increase the trading liquidity around XRP. PX 14 (Griffin Dep. Tr.) at 110:3-113:8.

120. Griffin admits that one of Ripple’s goals was to create a use for XRP. PX 14 (Griffin Dep. Tr.) at 113:9-15.

121. Birla, a member of Ripple’s team that developed XRP-related products, admitted that “building liquidity” in XRP markets was one of the focuses of his job. PX 15 (Birla Dep. Tr.) 87:13-20.

122. Birla also admitted that “helping build liquidity into [XRP trading] corridors that our customers wanted provided a better experience for our customers,” and that “building natural liquidity at exchanges ... was advantageous to the product experience and benefited [Ripple’s] customers.” PX 15 (Birla Dep. Tr.) at 145:10-146:1.

123. Birla also admitted that the existence of XRP speculative trading and liquidity would improve the experience for customers using Ripple’s products. PX 15 (Birla Dep.) at 101:25-104:1.

124. Birla also admitted that “as a priority for [Ripple’s] product we want more liquidity” in XRP trading, which includes “speculative” liquidity. PX 16 (Birla Inv. Tr.) at 168:17-172:8 (testifying about RPLI_SEC 43124).

125. Rapoport admitted that Ripple wanted to build XRP liquidity for its products, which requires trading volume, and that speculative trading creates trading volume. PX 10 (Rapoport Tr.) at 106:20-107:2.

126. Rapoport admitted that Ripple “had an interest in increasing liquidity and developing a liquid market for all assets on the Ripple Ledger, including XRP.” PX 10 (Rapoport Tr.) at 52:3-8.

127. Rapoport admitted that given that Ripple “had an interest in seeing a growth in the number of users using the [Ripple] protocol, it was important for XRP to be broadly distributed in the hands of people globally, people and entities globally.” PX 10 (Rapoport Tr.) at 58:8-23.

128. Vias, Ripple’s head of XRP Markets starting in late 2016, described the XRP markets as having three components—exchanges and market makers, commerce, and speculative traders—and admitted that his team engaged in activity that would promote speculative trading in XRP. PX 21 (Vias Inv. Tr.) at 73:10-76:13.

129. Vias admitted that Ripple engaged in activity to promote speculative trading in XRP because “we need[ed] to get to that ... to put in place the kind of longer-term vision of the

company,” again describing the various participants of a “robust market” that Ripple worked to attract. PX 20 (Vias Inv. Tr.) at 76:14-77:15.

130. In April 2017, a Ripple employee emailed a group of Ripple “leadership,” which included Birla, stating that among the “Requirements for wider adoption of XRP in the future” was “Liquidity,” that Ripple had launched “incentive programs” on “exchanges that list XRP ... aimed at getting XRP liquidity flywheel moving,” and that the “number one XRP priority for Q2 internally is higher speculative volume which will help with XRP liquidity.” Ex. PX 38 at RPLI_SEC 43124-125; PX 16 (Birla Inv. Tr.) at 168:17-172:8.

131. Zagone admitted you “would need a liquid market for” XRP, for one of Ripple’s products “to work,” and that Ripple had a “markets team that worked ... to ensure the liquidity” needed was available. PX 19 (Zagone Tr.) at 102:20-103:10.

132. In January 2018, Long emailed Larsen, Garlinghouse, and other Ripple Board members, to inform them about two upcoming media articles—one in the New York Times and one in the Financial Times—expressing “skepticism” about “customers’ interest in using XRP.” Long distributed to this group “key talking points” to respond to the stories, which included reminding the public that Ripple would continue its efforts to attract the “[s]peculators” it viewed as “play[ing] an important role in building XRP liquidity,” which was “important for XRP” to have a function in Ripple’s strategy. PX 39 at RPLI_SEC 221962-963.

133. Madigan, who began working at Ripple in 2019, admitted that liquidity in the XRP market was something Ripple wanted to achieve to “ensur[e] the smooth operation of” a Ripple product, ODL. PX 25 (Madigan Tr.) at 42:19-43:1; *see also id.* 22:6-23:7, 395:25-397:1, 402:2-7 (in order for Ripple’s “products to function smoothly, there’s a requirement for XRP liquidity to be

present,” that Madigan had a “mandate of helping support XRP liquidity” for that reason, and that she did in fact engage in efforts to support XRP liquidity as part of her job).

134. Samarasinghe testified that Ripple “undertook OTC Sales” “in order to contribute to building XRP liquidity for its products,” and that Ripple “had a goal of increasing liquidity” in XRP trading, for its products. PX 22 (Samarasinghe Tr.) at 301:2-5, 301:25-302:4.

135. [REDACTED], Ripple’s principal market maker, testified that “natural liquidity” with respect to XRP would come from “[a]ny market participant on the exchange who may be purchasing or selling for any number of different reasons,” and that this could come from participants who included “investors, speculators” in XRP. PX 26 ([REDACTED] Tr.) at 214:5-215:3, 216:7-218:7.

(v) Ripple Pursued Various Ways of Distributing XRP Without Flooding the Market with Supply, in Furtherance of Its Goal to Increase XRP Liquidity.

136. Since 2013, Ripple’s goal was to “get[] XRP off [its] books without immediately flooding the market with XRP supply / price pressure,” and Ripple, including Larsen, discussed various ways in which the company could do so. PX 44 at RPLI_SEC 461857-859.

137. Schwartz admitted that it has “always been an objective for both Ripple and [him] to distribute XRP,” and that one of the principal ways in which Ripple achieved such objective was free giveaways in 2013, but, after, sales of XRP for cash or distributing XRP to the public by giving it to third parties to sell for cash, as incentives or to invest in projects, which he admits Ripple views as interchangeable with sales. PX 6 (Schwartz Dep. Tr.) at 364:22-366:22.

138. Schwartz admitted that in 2013, a Ripple objective was to have XRP go “from not having a price to having a price.” PX 6 (Schwartz Dep. Tr.) at 246:18-248:21.

139. In November 2013, Rapoport and Griffin created a PowerPoint presentation called “XRP Distribution Framework.pptx,” which discussed the “Distribution Discussion Themes” for XRP and described these distribution themes as having the goals of “Network Growth” and

“Rais[ing] funds for Ripple Labs operations,” and that Ripple’s “biggest goal” with respect to distributing XRP was “existential.” PX 82 at RPLI_SEC 337667-68, 337670; *see also* PX 10 (Rapoport Tr.) at 99:22-101:25 (explaining that this document discusses a “framework around how the company could distribute its XRP”); PX 3 (Griffin Dep. Tr.) at 122:10-123:18 (explaining origin of this PowerPoint presentation and its purpose as discussing distribution “themes” and ideas for XRP with a trusted Ripple advisor).

140. The XRP Distribution Framework presentation explained that holders of XRP would want Ripple to retain XRP and that XRP “Speculators are speculating on Ripple Labs.” PX 82 at RPLI_SEC 337672; *see also* PX 3 (Griffin Dep. Tr.) at 129:7-16 (admitting that “speculators” in this document refers to speculators in XRP).

141. Rapoport admits that a November 2013 internal Ripple email, including him, Griffin, Britto, Larsen, discussing these XRP distribution options, reflects a “discussion on how to get XRP off of Ripple’s books and into the market in various different ways,” to meet Ripple’s goals. PX 10 (Rapoport Tr.) at 147:25-149:19. This email refers to one of the potential strategies to get XRP off of Ripple’s books as “give-aways,” and another as “auctions and pump priming.” PX 44 at RPLI_SEC 461857.

142. Rapoport admitted that in 2013 Ripple was “thinking about the most effective ways to get XRP into the world and distribute it.” PX 10 (Rapoport Tr.) at 101:3-10.

143. Ripple raised approximately [REDACTED] from seed-round financing. PX 7 (Schwartz Inv. Tr.) at 44:2-9.

(vi) Ripple Sold XRP to Fund Its Own Operations.

144. Ripple raised approximately [REDACTED] from selling Ripple equity in a Series A funding that closed in September 2015, approximately [REDACTED] from selling Ripple equity in a

Series B funding that closed in August 2016, and approximately [REDACTED] from selling Ripple equity in a Series C funding that closed in December 2019, PX 80 (Ripple Ans.) ¶ 78, for a total of [REDACTED] in additional funding via the sale of Ripple equity securities.

145. From 2013 through 2020, Ripple's operating costs and expenses were [REDACTED]. PX 45 (Declaration of Christopher Ferrante ("Ferrante Decl.)) Ex. 2.

146. From 2013 through 2020, Ripple had [REDACTED] in revenues from software and service revenues. *Id.*

147. From 2013 through 2020, Ripple had \$609,275,000 in revenues from non-monetary XRP transactions. *Id.*

148. From 2013 through 2020, Ripple had \$1,509,919,695 in revenues from monetary XRP transactions, combined with the \$609,275,000 non-monetary XRP transactions, totaling \$2.118 billion. *Id.*

149. From 2013 through 2020, Ripple raised approximately [REDACTED] from non-XRP related sources (equity financing, *supra* ¶¶ 143, 144, plus software sales, *supra* ¶ 146), and \$2.118 billion from XRP-related sources, or over [REDACTED]. *Id.*

150. In or around November 2017, the majority of Ripple's revenue was from sales of XRP, with revenue from software sales constituted "a small portion of revenue." PX 23 (Will Tr.) at 14:19-20, 34:15-43:9.

151. In or around November 2017 and through 2018, Ripple did not generate enough revenue from software sales to cover its expenses, and relied on revenue from XRP sales to cover its expenses. PX 23 (Will Tr.) at 14:19-20, 42:2-43:9, 248:19-249:5.

152. In or around May 2021, Ripple's ability to keep the lights on was funded in part through XRP sales. PX 6 (Schwartz Dep. Tr.) at 238:2-6.

153. Ripple’s software product, xCurrent, did not require the use of XRP or the XRP Ledger to operate. PX 8 (Ripple RFA Responses) Nos. 85, 238; PX 16 (Birla Inv. Tr.) at 76:21-84:25.

154. Ripple’s software product, xVia, did not use blockchain technology. PX 36 (Garlinghouse Inv. Tr.) at 72:12-73:6.

155. In or around June 2021, Ripple’s software sales revenues were not sufficient to support Ripple’s operating expenses and product development costs. PX 15 (Birla Dep. Tr.) at 51:21-24, 82:24-83:4.

156. Ripple “admits that its cash and cash-equivalent assets were used to fund its operations, and that certain of those assets, at times, were obtained through sales of XRP, and that Ripple’s operations, at times, have included, but were not limited to, the development of software products that use XRP.” PX 8 (Ripple RFA Responses) No. 32; *see also id.* No. 131 (admitting “XRP transactions have been a source of Ripple funding”); PX 80 (Ripple Ans.) ¶ 294 (Ripple “admits that proceeds from Ripple’s sales of XRP were used to support Ripple’s operations”).

157. Griffin admitted that in the early days of Ripple “the most clear way that it would make money was with XRP” by “selling it.” PX 3 (Griffin Inv. Tr.) at 72:13-73:10, 137:15-138:14.

158. Griffin admitted that Ripple marketed XRP to investment funds because having such entities purchase XRP was a “means to generate cash flow for Ripple’s business,” and also to “circulate the XRP outside of Ripple.” PX. 14 (Griffin Dep. Tr.) at 192:2-195:25 (testifying about XRP fund marketing materials at PX 46).

159. Schwartz admitted that, from 2014 to 2020, Ripple used sales of XRP as the principal way in which it funded its operations. PX 7 (Schwartz Inv. Tr.) at 108:20-109:4; PX 6 (Schwartz Dep. Tr.) at 238:2-23.

160. Schwartz admitted that, Ripple, as a company, was built around future revenue sources that, as of May 2021, Ripple had not discovered, and Ripple's XRP sales have served as "a funding source to permit [Ripple] to pursue those future models." PX 6 (Schwartz Dep. Tr.) 237:17-25.

161. In or around 2013, Ripple told potential investors that its "business mod[el] was predicated on XRP and the holdings of XRP" and "based on the success of XRP," and that it planned to sell XRP to fund itself. PX 3 (Griffin Inv. Tr.) at 48:11-49:4, 66:11-67:10; PX 55.

162. Long admits that from 2013 to 2015, Ripple sold XRP to "cover basically operational costs" and, in later periods, XRP sales constituted the majority of Ripple's revenues. PX 17 (Long Tr.) at 26:10-27:14.

163. On or about January 31, 2017, Ripple submitted an independent audit of its wholly-owned subsidiary, XRP II, to the NYDFS, copying its then-Assistant General Counsel [REDACTED] and its Chief Compliance Officer O'Gorman, where it explained that: "Ripple Labs created and maintains the Ripple protocol, the Ripple Consensus Ledger," and that "XRP II's sales of XRP represent one method by which Ripple Labs raises working capital," the other being "funding from outside investors." PX 47 at RPLI_SEC 532018, 532027.

164. Vias described XRP sales as part of the "treasury function," meaning selling XRP to raise cash for Ripple's operations. PX 20 (Vias Inv. Tr.) at 30:23-31:18.

165. Ripple's Code of Conduct as of December 2015, prepared by O'Gorman to comply with legal and regulatory requirements, explained that Ripple "reserves approximately [REDACTED] XRP to fund its operations, and distributes the balance." PX 42 at RPLI SEC 887967, 887972.

166. A 2017 iteration of Ripple’s Code of Conduct states: “Ripple reserves approximately [REDACTED] XRP to fund its operations, and distributes the balance. Our goal in distributing XRP is to incentivize actions that build trust, utility and liquidity in XRP.” PX 83 at RPLI_SEC 0885530.

167. Vias admitted that Ripple sold XRP to fund its operations. PX 20 (Vias Dep. Tr.) at 41:22-25.

168. In or around June 2018, “Ripple’s main business model/source of income [was] XRP sales.” PX 146 at 0261294.

169. Birla admitted that from in or around June 2018 to in or around June 2021, XRP sales were Ripple’s main source of income. PX 15 (Birla Dep. Tr.) at 70:23-73:19; PX 146.

170. Birla admitted that Ripple used proceeds from selling XRP to “further develop the ecosystem” and “build products around the XRP ledger.” PX 16 (Birla Inv. Tr.) at 118:23-120:20.

C. Ripple Offered XRP as an Investment in Ripple’s Ambitious, Upcoming Efforts and Expertise.

(i) Ripple’s and Larsen’s Early Promotional Efforts

171. For its early promotional efforts, Ripple created three documents—a “Gateways” brochure, a “Ripple Primer,” and a “Deep Dive for Financial Professionals”—which it distributed to various market participants including potential XRP buyers. PX 52 (Gateways); PX 53 (Ripple Primer); PX 9 (Deep Dive); PX 14 (Griffin Dep. Tr.) at 34:7–35:11; *see also supra* ¶ 59 (describing Primer); ¶ 60 (describing Deep Dive).

172. Ripple distributed the Gateways brochure to more than 100 third parties starting around May 2013. PX 14 (Griffin Dep. Tr.) at 29:12–32:21; PX 54; PX 55.

173. The “Gateways” brochure explained that “XRP is valued by its usefulness to Internet commerce” and that “Ripple’s business plan is based on the success of” XRP, which Ripple “will sell wholesale ... to fund itself.” PX 52 at 17, 19; PX 14 (Griffin Dep. Tr.) at 49:13–50:6.

174. Ripple distributed the Gateways brochure “to explain what the technology was and what it meant to different participants in our ecosystem.” PX 14 (Griffin Dep. Tr.) at 30:17–32:13; *id.* at 47:16–49:10.

175. The Gateways brochure included a graphical representation of the increase in price of XRP from March 31, 2013 to June 4, 2013, under the text, “Can a virtual currency really create and hold value? *Bitcoin proves it can.*” PX 52 at 19.

176. This graph in the Gateways brochure was included “to show...that there’s value in cryptocurrency.” PX 14 (Griffin Dep. Tr.) at 30:17–32:13; *id.* at 56:2–11.

177. The Primer was intended “to explain the very basic concepts of the Ripple technology” to “financial institutions.” PX 10 (Rapoport Tr.) at 62:2–64:9.

178. The Primer was widely distributed. PX 3 (Griffin Inv. Tr.) at 147:2–8.

179. Rapoport, who created the Primer in 2013, sent the draft Primer to Larsen and Griffin. PX 29; PX 28.

180. The Primer explained that Ripple “hope[d] to make money from XRP if the world finds the Ripple network useful,” and would “retain a portion [of XRP] with the hope of creating a robust and liquid marketplace in order to monetize its only asset.” PX 53 at 17.

181. Ripple provided the Primer to [REDACTED], a reporter at the [REDACTED]. PX 30.

a. [REDACTED] described himself “the greatest Ripple evangelist on the East Coast” and stated, “I look forward to XRP = \$1.” *Id.*

182. Ripple also provided the Primer to [REDACTED]. PX 405. [REDACTED] was the founder and CEO of [REDACTED] a seed investor in Ripple. PX 10 (Rapoport Tr.) at 173:20–174:6.

183. The Deep Dive was “a more in-depth primer” that was “intended for an audience...that works in financial markets...or banking.” PX 10 (Rapoport Tr.) at 182:17–83:8.

184. Rapoport was the primary author of the Deep Dive but a number of people, including Griffin, collaborated on it in 2014. PX 10 (Rapoport Tr.) at 183:18–84:23; PX 31; PX 56.

185. The Deep Dive was posted on Ripple’s website in or around 2014. PX 500.05.

186. In addition to posting this document on its website, Ripple also actively distributed it to over a hundred people. PX 10 (Rapoport Tr.) at 185:21–188:13.

187. The Deep Dive included the following statements by Ripple:

- a. Ripple’s “business model is predicated on a belief that demand for XRP will increase (resulting in price appreciation) if the Ripple protocol becomes widely adopted” and that “if the Ripple protocol becomes widely adopted, demand for XRP may increase, leading to an increase in price.” PX 9 at 23, 45.
- b. The Ripple protocol “could in fact be monetized through its native currency, XRP.” *Id.* at 17.
- c. “Increased exposure and a more global network of Ripple gateways could result in increased speculative interest, which may have significant impacts on price. Speculative demand and bullish expectations for the future were enough to send XRP and BTC total market capitalizations to over \$6 billion and \$23 billion in Q4 2013, respectively. If the Ripple protocol becomes the backbone of global value transfer, Ripple Labs expects the demand for XRP to be considerable.” *Id.* at 25.
- d. Ripple “plans to retain [REDACTED] of all XRP issued to fund operations (and hopefully turn a profit).” *Id.* at 17.
- e. Ripple “continues to attract a diverse set of talented individuals with experience in relevant technology and financial services companies.” *Id.*; *see also* PX 10

(Rapoport Tr.) at 190:4-191:25, 193:6-200:25; 203:25-205:3 (testifying about these portions of the Deep Dive document).

188. Ripple made similar statements to the foregoing statements in the Primer, Gateways, and Deep Dive, in its communications with investors and potential investors. For example:

- a. Ripple told potential investors that the more valuable XRP was, the more Ripple, as the largest holder of XRP, would benefit. PX 3 (Griffin Inv. Tr.) at 63:17-23.
- b. Ripple discussed with a potential investor Ripple’s “possible revenue models” including the “appreciation” of XRP. PX 7 (Schwartz Inv. Tr.) at 23:13-25:18.
- c. Ripple told potential investors that its business model was “predicated on XRP and the holdings of XRP, which was primarily...an asset appreciation play.” PX 3 (Griffin Inv. Tr.) at 48:11-25.
- d. Ripple’s distribution strategy, as communicated to investors on its website, stated: “Distributing value is a powerful way to incentivize certain behaviors...Our goal in distributing XRP is to incentivize actions that build trust, utility and liquidity in the network. If we distribute XRP with these goals in mind, over time we expect to see an increase in demand for XRP that more than offsets the additional supply we inject into market. Said another way, we will engage in distribution strategies that we expect will result in a stable or strengthening XRP exchange rate against other currencies.” PX 500.4.
- e. Ripple told third parties that it was “trying to recruit and onboard [other third parties] to provide liquidity” for XRP. PX 10 (Rapoport Tr.) at 120:25–123:14.

189. Griffin suggested the following language for a blog post in or around November 2017: “XRP is a ‘value play’ because it’s [sic] price has been held back by fake stigma (that it’s

centralized, that it's closed-source, that the supply is unrestricted, and that it's a private/permissioned blockchain)" and "[t]here is a fantastically-managed company, Ripple Inc., with a singular enterprise focus to make XRP the de facto digital asset to replace dormant capital in treasury operations." PX 59; *see also* PX 60.

190. When an investor told Long in 2013 that he "plann[ed] on continuing to invest in Ripple through additional acquisition of XRP as there is no stock etc.," Long responded "I encourage you to track the network's growth and progress via Ripple Charts. We're growing *fast*. Ripple now has 50k accounts and XRP is trading at about \$0.03. These are super positive indicators of the future for the network." PX 62.

191. Schwartz stated publicly that XRP's "price and demand could be influenced by what Ripple was doing to build a use case for XRP." PX 6 (Schwartz Dep. Tr.) at 363:2-12.

192. Ripple also used Twitter, Facebook, and other social media to communicate about XRP with the public. PX 17 (Long Tr.) at 52:5-24-53:14.

193. On or about April 16, 2013, Ripple tweeted: "#Ripple is what happens when money finally meets the internet." PX 506.002, *available at* <https://twitter.com/Ripple/status/324234937056251904?s=20>.

194. On or about October 7, 2013, Ripple tweeted: "Larsen: @RippleLabs will give away more than 50% #XRP. Keep rest to build team to contribute code, build apps, promote #Ripple. #money2020" PX 506.007, *available at* <https://twitter.com/Ripple/status/387363931422851072?s=20>.

195. On or about November 8, 2013, Ripple tweeted: "Check out Ripple Price in the App Store. Real-time XRP pricing for iOS devices. Made by @RippleLabs.

<http://bit.ly/17ku4NG>.” PX 506.009, *available at*

<https://twitter.com/Ripple/status/398947941081448448?s=20>.

196. On or about November 25, 2013, Ripple re-tweeted: “RT@RippleLounge The current price of Ripple(@SnapSwap) stands at 40 XRPs for 1 USD - Ripplemania has officially arrived!!!” PX 506.010, *available at* <https://twitter.com/Ripple/status/405034860412411905?s=20>.

197. Schwartz was a “highly respected” and important “spokesperson” for XRP purchasers. PX 36 (Garlinghouse Inv. Tr.) at 47:2-50:6.

198. On or about February 22, 2013, in a post on Bitcoin Forum, Schwartz stated:

The design of Ripple doesn’t require a central authority. But until it is decentralized, it will effectively have one... We’re not claiming it is decentralized now. We’re claiming it requires no central authorities and we are committed to decentralizing it... I would say we would also have to wait until a significant fraction of the operating servers aren’t under OpenCoin’s direct (or perhaps even indirect) control...

PX 507.01, *available at* <https://bitcointalk.org/index.php?topic=144471.msg1548391#msg1548391>.

199. On or about April 14, 2013, in a post on Bitcoin Forum, Schwartz explained Ripple’s financial incentive as tied to the value of XRP going up and stated: “Our financial interest is in seeing the value of XRP go up and the primary way for us to achieve that is broad adoption of Ripple as a payment system.” PX 507.02, *available at* <https://bitcointalk.org/index.php?topic=176077.msg1836865#msg1836865>.

200. On or about May 12, 2013, in a post on Bitcoin Forum, Schwartz stated, referring to Ripple: “As a corporation, we are legally obligated to maximize shareholder value. With our current business model, that means acting to increase the value and liquidity of XRP. We believe this will happen if the Ripple network is widely adopted as a payment system. We are pursuing multiple avenues at once. One would expect increased demand to increase price.” PX 507.04, *available at* <https://bitcointalk.org/index.php?topic=148278.msg2123720#msg2123720>.

201. On or about May 16, 2013, in a post on the Bitcoin Forum, Schwartz stated: “We will do what we can to drive adoption. Most of that will probably involve encouraging and assisting others. We plan to continue to develop client and server software for as long as necessary. PX 507.06, *available at* <https://bitcointalk.org/index.php?topic=201794.msg2172628#msg2172628>.

202. On or about May 16, 2013, in a post on Bitcoin Forum, Schwartz stated: “The price of XRP is just a matter of supply and demand. We believe that broad adoption of Ripple as a payment platform will drive demand...We don’t currently plan to do anything but develop and promote the Ripple payment network.” PX 507.05, *available at* <https://bitcointalk.org/index.php?topic=201794.msg2171771#msg2171771>.

203. On or about May 28, 2013, in a post on Bitcoin Forum, Schwartz stated: “That’s a large part of the reason we designed it so that we wouldn’t be running it. Ultimately, we think it’s adoption of Ripple as a payment network that will drive demand for XRP. We’re willing to take the risk that we’re wrong on that, as we’ve taken so many other risks. If we fail because Ripple is successful as a payment network and demand for XRP just doesn’t arise, well, of all the many ways we could fail, that’s not too bad. Our primary strategy is to remove every possible drag on adoption of Ripple as a payment network and do everything we can to drive adoption.” PX 507.07 *available at* <https://bitcointalk.org/index.php?topic=210634.msg2297107#msg2297107>.

204. In an email dated on or about June 10, 2013 to a professor at the University of Georgia, Schwartz wrote: “[A]ll the XRP were initially controlled by the Ripple network founders. Some of those will be held by OpenCoin to finance itself and some of them will be given away to promote the payment network. We believe that adoption of the payment network will increase the value of XRP because the easiest way to make an asset liquid is to provide liquidity to and from XRP and people who don’t know what asset they might need may hold XRP.” PX 63.

205. Schwartz testified that Ripple had a legal obligation to maximize the value of XRP. PX 6 (Schwartz Dep. Tr.) at 246:23-250:1. When asked at his deposition in 2021 if Ripple is legally obligated to maximize shareholder value today, Schwartz responded “[y]es.” PX 6 (Schwartz Dep. Tr.) at 246:23-247:15.

(ii) Defendants’ and XRP Investors’ Interests Were Aligned.

206. XRP are digital assets that are all identical or fungible to one another. PX 8 (Ripple RFA Responses) Nos. 24, 25.

207. The market price increases or decreases for all units of XRP together and equally. PX 81 (Garlinghouse Dep. Tr.) at 337:17-22.

208. Garlinghouse admitted: “We [Ripple] own a lot of XRP. If the price goes up, the value of the assets we own goes up” and “Ripple owns a lot of XRP and as capitalists, we benefit if the price of XRP goes up.” PX 36 (Garlinghouse Inv. Tr.) at 95:22-96:18.

209. Garlinghouse “general view” is “if it’s good for the [XRP] market, it’s good for Ripple.” PX 81 (Garlinghouse Dep.) 316:9-13.

210. Rapoport testified: “Ripple Labs certainly had a preference for the price [of XRP] to rise rather than fall given that it was a significant holder” [of XRP]. And so in a similar way to how ExxonMobil doesn’t want to have its actions collapse the price of oil since it’s a significant holder of oil, Ripple Labs was cognizant of the fact that its actions in the marketplace could have adverse consequences for its balance sheet.” PX 10 (Rapoport Tr.) at 151:2-152:4; *see also* PX 44 at 0461857.

211. Rapoport also testified that “just like [he] preferred the price of XRP to go up rather than down, the firm [Ripple] would have benefitted from the price of XRP growing up rather than down.” PX 10 (Rapoport Tr.) at 52:9-21.

212. Garlinghouse texted Larsen in October 2017: “Nice to see Xrp have a great week and weekend! Volume and price.” PX 64.

213. Responding to an XRP holder complaining that he had “been waiting 4 years on Ripple to hit,” (a colloquial term referring to an investment doing well) Garlinghouse wrote in a March 2017 email: “I’ve been personally buying XRP in Jan and Feb (and earlier in March). You are not alone in your expectations.” PX 65 at 0763477.

214. Garlinghouse told Ripple Board members in April 2017: “I think we will all agree that the most significant Q1 development came at the end of the quarter in the form of a dramatic spike in XRP price and market activity. As I noted in my more informal note that I sent to a broader list of investors and advisors...it’s a game-changer for us on a bunch of levels. On an operating level, for XRP to serve the purpose of lowering liquidity costs for payments, it needs deep liquidity across fiat currency pairs. Speculative and market trading volume builds that liquidity – they are the catalyst to the XRP flywheel. The recent rally has us [sic] moved that flywheel into a much higher gear which puts us in a much stronger position to execute on other projects that continues to fuel the flywheel.” PX 66 at 0361257.

215. When asked how an increase in price in XRP would benefit Ripple, Vias responded: “We own 50 billion XRP. It’s our primary asset. So an increase in value would help the company be more valuable.” PX 20 (Vias Inv. Tr.) at 353:20-24.

216. Vias also told Griffin in May 2017 that he wanted Ripple to grant him an option for [REDACTED] XRP because he wanted the “opportunity to significantly participate in [XRP’s] appreciation.” PX 67 at 0070426.

217. Ripple disbursed the following amounts of units of XRP to its employees and executives as compensation and bonuses: approximately [REDACTED] units of XRP in 2014;

approximately [REDACTED] units of XRP in 2015; approximately [REDACTED] units of XRP in 2016; approximately [REDACTED] units XRP in 2017; approximately [REDACTED] units of XRP in 2018; and approximately [REDACTED] units of XRP in 2019. PX 85 (Ripple RFA Responses) Nos. 419–424.

218. In addition, Garlinghouse received [REDACTED] units of XRP as part of his December 2016 compensation agreement. PX 86 (Garlinghouse RFA Responses) No. 66. Garlinghouse received an additional [REDACTED] units of XRP as part of his May 2019 compensation agreement. *Id.* at No. 67; *see also* PX 73 at 0070426; PX 74; PX 75.

219. At the time of his deposition in September 2021, Garlinghouse had “by virtue of [his] ownership in Ripple [equity]...indirect ownership of...three and a half billion units of XRP...as a rough estimate.” PX 81 (Garlinghouse Dep. Tr.) at 21:19-22:14.

220. In addition, “most, if not all, of [Garlinghouse’s] direct reports have an XRP grant that vests over time.” PX 81 (Garlinghouse Dep. Tr.) at 339:17-340:19.

221. Compensation in the form of XRP allowed Ripple employees to “take the risk of the price in XRP, both upside and downside.” PX 29 (Will Tr.) at 77:24-78:11.

222. An increase in the price of XRP benefits Ripple, its employees, and XRP investors. PX 14 (Griffin Dep. Tr.) at 240:11-17; PX 21 (Vias Inv. Tr.) at 351:23-352:5.

223. On or about September 5, 2017, Schwartz tweeted that a “higher price for #XRP would help @Ripple several ways.” He noted that the “most obvious benefit to Ripple of an increased price for XRP is that it increases the value of Ripple’s XRP. This means that Ripple has a greater ability to incentivize partners and liquidity. It also means that Ripple can raise more revenue by selling XRP.” ...Whether it makes sense or not, XRP’s price is seen as a measure of Ripple’s

success or likelihood of future success.” PX 506.123 (David Schwartz, @joelkatz, TWITTER (Sept. 5, 2017), <https://twitter.com/joelkatz/status/905152430035238912?lang=en>).

224. “If the price of XRP increased ... Ripple’s holdings of XRP [were] more valuable.” PX 19 (Zagone Tr.) at 94:15-95:6.

225. “[O]ver the long term, an increase in [XRP’s] price would benefit both XRP holders and Ripple.” PX 22 (Samarasinghe Tr.) at 187:20-188:6.

226. “[I]f Ripple had a choice, Ripple would prefer the long-term price [of XRP] to go up.” PX 6 (Schwartz Dep. Tr.) at 234:15-235:4.

227. In the context of Ripple selling XRP to fund its operations, “a higher price [for XRP] could be helpful.” PX 25 (Madigan Tr.) at 54:15-25.

228. As an XRP holder, Griffin hoped that the volume and price of XRP would rise so that he could “make money.” PX 14 (Griffin Dep. Tr.) at 136:10-137:11, 208:5-15.

229. Rapoport “certainly preferred it to go up than down,” referring to the price of the [REDACTED] units of XRP he owned. PX 10 (Rapoport Tr.) at 44:4-10.

230. Ripple’s head of regulatory affairs purchased XRP on the open market in hopes that XRP would rise in value. PX 19 (Zagone Tr.) at 28:5-29:16.

231. A “declining XRP price would have an impact on Ripple’s balance sheet first” and would be “detrimental or damaging to the focus around building liquidity around XRP.” PX 3 (Griffin Inv. Tr.) at 264:22-265:8. Further, a decline in XRP’s price is “not necessarily the greatest signal for the health of the [XRP] ecosystem and the technology underpaying [sic] it.” *Id.* at 256:6-23.

232. As Vias testified, “[w]hen you own 55 billion XRP [as Ripple does], it’s pretty obvious you don’t want [the price of XRP] to go down.” PX 21 (Vias Inv. Tr.) at 385:10-23.

233. In a January 2017 email, Vias wrote to other Ripple employees including Garlinghouse and Larsen: “Over the last few weeks we’ve seen an impressive rally in digital assets, a rally in which XRP has not significantly participated. For the sake of some of our large XRP investors, and for our own sanity, it’s important to take stock of what’s happened, why it’s happened, and what this means for our XRP strategy.” PX 68 at 0353469.

234. In a November 2017 email to Griffin, Samarasinghe wrote: “[T]oday, ETH rallied more than XRP, with ETH up 8.33%, and XRP only up 4.2%...It is disheartening to see few speculators jumping into XRP.” PX 69 at 0319273. In a follow-up email, Samarasinghe added that Ripple’s “[m]essaging should aim to cultivate the XRP speculator community, which is very important to us.” *Id.* at 0319272. When Griffin forwarded her this email, Long responded: “Yep – aware of all points and doing our best!” *Id.*

235. Like Ripple and its employees, other XRP holders benefited from increased liquidity and price of XRP, as holders of an asset, including XRP, in general would prefer more liquidity for that asset, as it lowers the cost to enter or exit a position. PX 22 (Samarasinghe Tr.) at 75:17-76:8.

236. For example, Madigan admitted that as a holder of XRP she wanted there to be healthy XRP liquidity so she could sell her XRP and that Ripple “cares to see that XRP has deep liquidity to the support the scaling of [its] flagship” product. PX 25 (Madigan Tr.) at 165:20-166:23.

237. Samarasinghe told a third-party exchange that Ripple’s “goal is to have redundant XRP sales presence on basically every major exchange that sells XRP, with priority for exchanges that we don’t have a presence on.” PX 70 at 00303-04.

238. Samarasinghe admitted that listing XRP on new exchanges could “benefit XRP speculators in that it could possibly provide a new avenue for demands for XRP or liquidity for XRP.” PX 22 (Samarasinghe Tr.) at 172:23–173:5. For example, “[t]he rumors that XRP would be

listed on Coinbase were a factor that market speculators attributed the price rise of XRP.” *Id.* at 180:15-23; PX 71 at 0198978.

239. As Schwartz testified, the incentives of holders of XRP subject to lock-ups are aligned with Ripple’s incentives because “[i]f you are guaranteed to hold an asset over a period of time, the long-term price becomes...more important to you. You would be more concerned with the long-term price than the short-term price.” PX 6 (Schwartz Dep. Tr.) at 287:23-289:22.

240. In January 2020, Will emailed the Ripple leadership team that crypto trading platform Binance would list a “perpetual swap contract” between XRP and the crypto token “USDT,” which permitted “speculators as well as hedgers alike an efficient form to trade.” PX 40 at RPLI_SEC 476871.

241. Ripple’s XRP markets team monitored the XRP market on a daily basis, including monitoring the price and volume of XRP. PX 14 (Griffin Dep. Tr.) at 226:11-17; PX 21 (Vias Dep. Tr.) at 40:8-14; *see also* PX 80 (Ripple Ans.) ¶¶ 193, 198.

242. Ripple monitored the XRP markets on a daily basis, and Ripple employees expressed disappointment over unfavorable XRP price movements and vice-versa. PX 68 at 0353469; PX 69 at 0319273; PX 14 (Griffin Dep. Tr.) at 242:24-243:14.

243. Ripple employees discussed at weekly sales meetings the price, volume, spread, volatility and other components of liquidity as part of assessing the “health” of the XRP market. PX 25 (Madigan Tr.) at 37:3-10, 38:20-39:6, 40:20-42:18, 123:16-24, 131:25-132:9, 273:21-274:21.

244. Samarasinghe produced daily market snapshots that compared the liquidity and price of XRP to other digital assets and reported on his analyses at Ripple’s weekly sales meetings. PX 22 (Samarasinghe Tr.) at 66:21-70:19.

245. Long monitored public sentiment around XRP by reviewing press articles about XRP and social media conversations related to XRP. PX 17 (Long Tr.) at 39:17-40:4.

246. In August 2016, Griffin emailed GSR's [REDACTED]: "[REDACTED] can you verify if GSR was behind the price moves this morning? We saw the price was bid up pretty aggressively. Fantastic." PX 76 at 00014722.

247. In a November 2016 email, Griffin told Garlinghouse: "[I]'m VERY disappointed by the price response to the [REDACTED] news today. I think it's a combination of how XRP is perceived but also just that there are a bunch of large holders who endlessly sell into good news (just my gut from having watched the price for 5 years). By contrast, IOTA is up 20% today and LISK is up 30% on some bullshit news. .meanwhile we're already retracing back down to yesterday's price." PX 77 at 0395081.

248. In September 2019, Madigan stated in an internal Ripple communication: "v worried about xrp at 0.20 and lower otherwise. i DREAD q3 [XRP Markets] report if we dont take swift, creative action now (!)." PX 78 at 0295507.

(iii) Defendants Touted Interest in the Success of XRP and their Common Interest with XRP Holders.

249. It is common knowledge that Ripple is XRP's largest holder. PX 21 (Vias Inv. Tr.) at 385:10-23.

250. Ripple disclosed its XRP holdings on its website. PX 23 (Will Tr.) at 171:2-174:14.

251. The Deep Dive stated: "Ripple Labs believe that its incentives are aligned with those of the protocol's users." PX 9 at p. 17; PX 10 (Rapoport Tr.) at 194:6-195:14.

252. On or about August 13, 2020, in an interview with Financial Times, Garlinghouse stated: "We are a capitalist, we own a lot of XRP. So do I care about the overall XRP market? 100

per cent.” PX 502.06, *available at* <https://www.ft.com/content/7d9c934f-3840-4285-96a7-4bdf7fee9286>.

253. Birla, who described himself as “one of the spokesperson [sic] for Ripple,” tweeted in February 2020: “Ripple and MGI are strategic partners – we are building new infrastructure together. This market development requires a ton of work, effort, and resources.” PX 506.118 *available at* <http://twitter.com/ashgoblue/status/1232480844847017985?s=20>; PX 16 (Birla Inv. Tr.) at 12:1-21.

254. Ripple represented to [REDACTED]: “All sales of XRP conducted by XRP II are for the benefit of Ripple Labs, its ultimate parent company, and represents the method by which Ripple Labs raises working capital.” PX 87 at RPLI_SEC 0095178.

255. Ripple’s May 8, 2018 “Key Messages, FAQ and Fast Facts” stated: “What differentiates us is that we also have XRP – so we also make money through XRP sales, which we highlight every quarter in our Markets report.” PX 88 at RPLI_SEC 0735394.

256. Ripple’s May 8, 2018 “Key Messages, FAQ and Fast Facts” also stated: “We own just over 60% of XRP and we use it to grow our team and our business. We also use it to build the ecosystem.” *Id.* at RPLI_SEC 0735397.

257. The talking points also further instructed employees to say that Ripple “employees can choose to receive payment of their salary in XRP.” *Id.*; *see also* PX 19 (Zagone Tr.) at 183:8-184:23, 191:16-192:22.

258. Ripple’s “General Media Training FAQ” stated: “We’ve been strong stewards of XRP and our interests are very much aligned.” PX 89 at RPLI_SEC 0376175.

259. When asked what it means that Ripple has “been strong [a] steward[] of XRP and [its] interests are very much aligned,” Griffin testified: “That Ripple, as an XRP owner, has similar interests with other XRP owners.” PX 14 (Griffin Dep. Tr.) at 313:19-314:13.

260. On May 8, 2018, Garlinghouse sent an email which stated: “As responsible stewards of the XRP ecosystem wanting to help unlock XRP’s full potential and further build the liquidity and usefulness of XRP, Ripple launched Xpring.” PX 90 at 0392729.

a. Ripple distributed at least 776 million units of XRP as part of the so-called “xPring” initiative launched in 2018 to fund third parties that would support development of new applications of XRP and the XRP ledger. PX 80 (Ripple Ans.) ¶ 147.

b. Ripple publicly described the xPring initiative as part of Ripple’s efforts to “develop use cases for XRP.” PX 501.11 (2Q19 XRP Markets Report) at 3.

261. In a July 23, 2019 email, Birla described an “additional area[] of focus” as “XRP stewardship (trust, liquidity, price, etc).” PX 91 at 0200714.

262. In a September 2019 email to other Ripple employees regarding Ripple’s approach to its dealings with an institutional XRP holder, Madigan proposed that Ripple “explain our role as stewards” of XRP and “position ourselves as responsible market leaders by addressing this volumes problem head-on.” 92 at 0463382.

263. On or about October 8, 2019, in an interview at the Economic Club of New York, Garlinghouse stated: “Ripple owns a lot of XRP. We own about 55% of all XRP, so clearly we’re very interested in the health and success of that ecosystem, but it is an open source technology that Ripple uses in its technical stack.[...]we own a lot of this digital asset. Anything we do that’s good

for that digital asset is good for us.” PX 503.18 at 8:19-23, 19: *available at* <https://www.youtube.com/watch?v=1U6ZiOyX2TA>.

264. On or about October 18, 2019, in its 3Q19 XRP Markets Report that Ripple posted on its website, Ripple stated: “As a stakeholder of XRP Ripple is an interested party in its success. We are aligned with other XRP stakeholders and focused on supporting a healthy XRP community...Ripple will continue to take proactive steps to address misinformation and FUD while being a responsible and transparent stakeholder of XRP.” PX 501.12 at 3, 5, *available at* <https://ripple.com/insights/q3-2019-markets-report/>.

265. On or about April 30, 2020, in its 2Q19 XRP Markets Report that Ripple posted on its website, Ripple stated: “Ripple publishes the quarterly XRP Markets Report to voluntarily provide transparency and regular updates on the company’s views on the state of the XRP market, including quarterly programmatic and institutional sales update relevant XRP-related announcements such as Xpring and RippleNet partnerships and commentary on previous quarter market developments. As an XRP holder, Ripple believes proactive communication is part of being a responsible stakeholder. Moreover, Ripple urges others in the industry to follow its lead to build trust, foster open communication and raise the bar industry-wide.” PX 501.14 at 1, *available at* <https://ripple.com/xrp/q1-2020-xrp-markets-report/>.

- a. The 2Q17 XRP Market Report stated that Ripple’s “team” of developers was “best in the world” and that Ripple had been a steward of XRP. PX 501.03.

266. On or about July 24, 2019, Garlinghouse tweeted: “In this nascent industry, we need to be transparent and urge others to do the same. As a responsible stakeholder of XRP, @Ripple is confronting this issue by updating the benchmark for market volume and reducing future sales of

XRP.” PX 506.115, *available at*

<https://twitter.com/bgarlinghouse/status/1154064322475233280?s=20>.

267. In its 3Q2019 XRP Markets Report that Ripple posted on its website on or about October 18, 2019, Ripple stated: “Ripple publishes the quarterly XRP Markets Report to voluntarily provide unparalleled transparency and regular updates on the state of the XRP market, including quarterly programmatic and institutional sales updates, relevant XRP-related announcements such as Xpring and RippleNet partnerships, and commentary on previous quarter developments. As an owner of XRP, Ripple believes proactive communication is part of being a responsible stakeholder.” PX 501.12 at 1, *available at* <https://ripple.com/insights/q3-2019-markets-report/>.

268. In its Q4 2019 XRP Markets Report that Ripple posted on its website on or about January 22, 2020, Ripple stated: “Ripple publishes the quarterly XRP Markets Report to voluntarily provide transparency and regular updates on the company’s views on the state of the XRP market, including quarterly programmatic and institutional sales updates, relevant XRP-related announcements such as Xpring and RippleNet partnerships and commentary on previous quarter market developments. As an XRP holder, Ripple believes proactive communication is part of being a responsible stakeholder. Moreover, Ripple urges others in the industry to follow its lead to build trust, foster open communication and raise the bar industry-wide.” PX 501.13 at 1, *available at* <https://ripple.com/insights/q4-2019-xrp-markets-report/>.

269. On or about October 19, 2019, in an interview sponsored by the DC Fintech, Garlinghouse stated: “We own a lot of XRP so we are certainly interested in success of that broadly defined.” PX 503.24 at 27:14-16, *available at* https://www.youtube.com/watch?v=AkEA_YqaCnw.

270. In a January 2018 email, Garlinghouse told an XRP investor: “Ripple obviously has a vested interested [sic] in the success of the XRP ecosystem – and we invest in the XRP ecosystem in many ways.” PX 93 at 0394442-43.

271. Garlinghouse stated publicly that he is “very long XRP as a percentage of [his] personal balance sheet.” PX 80 (Ripple Ans.) ¶ 7.

272. Vias stated on an XRP forum: “Most of you are not Ripple employees. You are most definitely on the team, some only because you’re long XRP.” PX 508.35. Vias testified that an XRP holder who is “long XRP” wants XRP to go up in price. PX 20 (Vias Dep. Tr.) at 124:4-24.

273. Similarly, Schwartz noted publicly that “the ideal situation for Ripple would be an increasing [XRP] price over the long term with few downward spikes” to “maximize” Ripple’s revenue from XRP sales, that both Ripple and XRP holders want more use for the XRP Ledger and XRP, and that even a small increase in XRP’s price would make Ripple “massively profit.” PX 6 (Schwartz Dep. Tr.) at 271:8-275; 353:4-355:7; *see also* PX 508.18, 508.28 (publicly stating the foregoing).

274. On or about July 6, 2017, in a post on XRP Chat, Schwartz stated: “There is a huge advantage to having one entity that holds a significant fraction of an asset. Ripple could spend \$100 million on something that has no conventional way of creating revenue, but if it pushed the price of XRP up by one penny over the long term, Ripple would massively profit. Nobody has that kind of concentrated interest in any coin distributed primarily by mining. The money that would have gone to pay for ASICs and electricity to mine the asset instead goes to building the liquidity and technology to make XRP attractive for the use case Ripple is focused on. There are things an asset that isn’t mined can do that an asset that’s mined cannot do because of this difference. Let me give you a stark example. The Bitcoin foundation has been trying to raise funds to combat New York’s

BitLicense regulation. On April 10, 2017, they announced that they needed to raise between \$100,000 and \$200,000 and that the first hearing was May 4. Likely these efforts would benefit many bitcoin users and holders, but nobody has a concentrated enough interest to pay the bulk of the funds. This a clear example of a public good free rider problem – everybody is worse off if nobody contributes, but nobody has a strong individual incentive to contribute. Everyone wants to be the only one who doesn't contribute. As of today, more than one month past that hearing, they've raised about 3 BTC. How much do you think Ripple can (and does) spend on regulatory issues critical to using XRP for its use case? The reason is obvious – keeping the regulatory way clear for XRP's use for settlement makes a huge difference to Ripple, the company, specifically.” PX 508.18, *available at* <https://www.xrpchat.com/topic/7054-how-do-you-like-your-misinformation-please-feel-free-to-correct-him/?do=findComment&comment=67173>.

275. On or about December 1, 2017, in a post on XRP Chat, Schwartz stated: “A higher price tends to correlate with more liquidity. It's not really a direct cause and effect relationship, but they tend to move in tandem. The ideal situation for Ripple would be an increasing price over the long term with few downward spikes. This would increase Ripple's value and revenue which not only makes Ripple's stockholders and Board of Directors happy but also increase Ripple's ability to deploy resources to incentivize partnerships and build the ecosystem. This would also reduce the cost of holding XRP. If the upside is worth more than the downside, FIs can hold XRP and give someone else both the upside and the downside of the volatility, giving them zero holding cost. This could lead to tremendously increased demand if Ripple is successful in promoting XRP as a vehicle currency. Imagine if XRP is an intermediary for payments in many different corridors and the cost of holding XRP is zero or negative. Now, companies like AirBNB, Uber, and Amazon can make international payments as follows: 1) They receive assets all over the world. 2) When people

need to make payments into places where they have assets, they provide the fiat currency and take the XRP. This lets them buy XRP at zero or negative cost because they are being paid by whoever is making the payment. 3) When they need to make payments, they only have to do half the payment because they already hold XRP, the preferred intermediary payment. So they would only pay about half the normal cost. This is kind of my dream scenario for XRP. Companies that have to make payments around the world buy XRP at below market by facilitating other people's payments and use their XRP to make payments at below market because they only have to pay for the "from XRP" half. All those piles of XRP people are holding increase demand, increasing price, reducing the holding cost of XRP to zero or negative. You can also imagine traders doing the same thing. They hold piles of XRP because this lets them be opportunistic and take other assets that people are trying to make payments with since they'll need XRP to buy the asset they're trying to deliver. Whether it will happen is, of course, certainly not guaranteed. But Ripple's preferred price of XRP is as high as possible, preferably increasing, so long as sharp and/or steep drops are minimized." PX 508.28 available at <https://www.xrpchat.com/topic/12335-ripple-the-fundamental-value-of-xrp/?do=findComment&comment=127965>.

(iv) Ripple Created and Touted an XRP Escrow and Other Steps to Restrict Resales of XRP that Could Affect Its Price, Casting Itself as a Good "Steward" of XRP.

276. Larsen believed that people in the global marketplace considered the amount of XRP that Ripple's founders held "to be high and sort of overhang, and that it would be constructive if that overhang was decreased over time." PX 2 (Larsen Tr.) at 92:20-93:17.

277. In or around November 2013, an internal Ripple presentation acknowledged that there existed "[o]verhang [c]oncerns" due to the XRP holdings of Ripple and its founders. PX 101 at RPLI_SEC 0012365.

278. Griffin came to learn during the course of his tenure at Ripple—including directly from XRP market participants, as well as from cryptocurrency media, forums, Twitter, and other social media—that there was “overhang concern,” in other words, third parties had concerns regarding the amount of Ripple’s holdings of XRP. PX 14 (Griffin Dep. Tr.) 72:16-73:19; PX 3 (Griffin Inv. Tr.) 198:1-200:4.

279. In or around 2013, Griffin believed that “overhang” concern related to XRP, which he thought was “just the possibility of a large supply entering the market,” was “a theme or reoccurring criticism of XRP” that was a “headwind” that could be “a reason why people would not want to buy XRP.” PX 3 (Griffin Inv. Tr.) 126:9-127:18.

280. In or around August 2014, Ripple employees, including Larsen, expressed concern about “downward pressure” on XRP prices created by large sales of XRP and internally debated possible solutions to this “downward pressure.” PX 100.

281. Ripple made efforts to eliminate “overhang” as to XRP or otherwise minimize any disruption caused by large XRP sales. PX 6 (Schwartz Dep.) 326:12-329:8; PX 14 (Griffin Dep.) 199:17-200:4.

282. On or about May 8, 2014, Griffin emailed Larsen and another Ripple employee with the subject line “xrp injections”: “what can we do? i’m concerned that we lose speculator interest given that xrp will never rise with someone always ready to flood the supply anytime there is good news. the speculators are good for liquidity and provide ‘fumes’ for volume and market making. losing them entirely could cause problems for us. we need a solution.” PX 95 at 72:23-73:19.

283. In response to the announcement by Ripple co-founder McCaleb of the sale of a large block of XRP shares, in May 2014, Ripple stated in a statement by Britto: “Many of you are concerned about what impact these sales will have on the market...We’ve heard and shared your

concern about the founders' XRP allotment. Prior to today, we've been working on a founders' XRP lock up plan, which Chris [Larsen] and I are participating in. You can rest assured that a dumping event like this won't happen from other co-founders." PX 96 at 0000903.

284. In April 2014, Ripple employees discussed with Larsen over email what the "company line" was if Ripple was "asked to explain what's happening to the price of XRP" and noted concerns regarding McCaleb's movement of XRP into accounts that signaled he would continue to sell XRP. PX 109 at 0644286-7.

285. In June 2014, Larsen wrote McCaleb, a Ripple founder, re "Resolving your XRP issue," and Larsen stated his intention to take steps "[t]o shield XRP holders, including many early believers in Ripple, from a short-term price shock, which will inevitably result from [McCaleb's] mass XRP sale set to occur" at a specified future date. PX 108 at RPLI_SEC 0867637-38.

286. In approximately July 2014, after McCaleb announced his plan to increase his XRP sales, Ripple negotiated—and by August 2014 was able to announce—an agreement requiring McCaleb to slow down his sales in order to minimize any negative impact on XRP's price. PX 110 at 1, 2, *available at* <https://archive.ph/cuEoz>.

287. According to Long, Ripple's "overall goal" in announcing its agreement with McCaleb restricting his XRP sales was "to assure the market [Ripple was] resolving the founders' XRP responsibly." PX 111 at RPLI_SEC 0530022.

288. Larsen was aware that there was "some concern that Ripple could dump its XRP holdings and that would be a bad thing." PX 2 (Larsen Tr.) 376:12-377:10.

289. In an email pitching an XRP purchase to a large institutional investor sent in July 2014, Rapoport, copying Larsen, explained that the "settlement deal" with McCaleb meant XRP's "price could go [up] +50-80% from here very easily." PX 58 at [REDACTED]_Ripple_0002423.

290. In describing a September 2016 meeting Griffin and Garlinghouse had with potential investor [REDACTED] and his team at [REDACTED] (“[REDACTED] a venture capital company based in Connecticut focused on the crypto markets and which owns, among others, [REDACTED] [REDACTED] and [REDACTED], Griffin summarized feedback from [REDACTED] and his team including:

- a. “Jed [McCaleb] Settlement - Ripple can do more to make clearer how Jed’s [McCaleb’s] XRP are controlled. One idea is to provide an overview of the selling constraints/plan for founders and executive, wherein we can reemphasize Jed’s [McCaleb’s] lockups.”
- b. “Founders and executive team - Ripple needs to be more transparent about who owns what, when it will be released, and what liquidation controls are in place. We need to hold ourselves accountable to a public schedule.”
- c. “Escrow – ‘Ripple is a central bank of XRP’ and should be looking into innovative ways to guarantee distribution with a predictable and public schedule. Consider moving the companies [sic] XRP into escrow.” PX 97 at RPLI_SEC 0378114.

291. [REDACTED] expressed concerns to Garlinghouse and other Ripple employees that “[a]n obstacle to getting new money into XRP is predictability of supply,” and because “[i]nvestors need certainty and stability to evaluate risk and price accordingly,” “[w]ithout a clearly defined distribution plan, it will be difficult/impossible to attract new money to XRP.” PX 97 at RPLI_SEC 0378114; PX 14 (Griffin Dep. Tr.) at 329:10-332:9.

292. In November 2016, Griffin emailed Larsen and Garlinghouse: “In preparation for our negotiations with DCG next week, we will need to have alignment from you on the main deal

consideration: a more predictable distribution of XRP. While DCG is the impetus for these considerations, the underlying premise—that a more predictable distribution of XRP is needed to attract institutional investors to XRP—is applicable to all investors and users of XRP.” PX 98 at 1027131.

293. In the same email, Griffin also requested approval of a proposal for a 3-year plan wherein a total of 19 billion XRP would be available to Ripple for distribution and “[e]nforcement by escrow: Suspended Payments (smart contract available in [Ripple Consensus Ledger] next month). At the end of year 3, the remaining 45B of our holdings are unlocked.” PX 98 at 1027131.

294. In or around March 2017, Schwartz wrote on XRP Chat that if Ripple opted not to lock up XRP, “people will fear that if things aren’t going well, [Ripple will] be tempted to sell lots of XRP, precisely the fear [Ripple] want[s] to eliminate.” PX 508.37.

295. On or around March 27, 2017, Ripple held an internal “XRP Escrow Meeting,” the goal of which “was to come to an agreement that: 1. there is a problem with market uncertainty regarding Ripple’s XRP holdings 2. there is a solution to create more certainty around Ripple’s XRP holdings.” PX 99 at RPLI_SEC 0025512.

296. At the internal Ripple meeting held on or around March 27, 2017, there was “[g]eneral agreement on [the] Ripple team that there is a problem” with “market uncertainty regarding Ripple’s XRP holdings.” PX 99 at RPLI_SEC 0025512.

297. On the agenda for the internal Ripple meeting held on or around March 27, 2017, there was a “proposed solution to create more certainty around Ripple’s XRP holdings,” which included: “Lock-up company XRP using Escrow, a feature on [the Ripple Consensus Ledger] that allows a user to ‘lock-up’ an amount of XRP with an expiration date.” PX 99 at RPLI_SEC 0025512.

298. At the internal Ripple meeting held on or around March 27, 2017, there was “[g]eneral agreement on Ripple team” that locking up a portion of Ripple’s XRP was “a viable solution.” PX 99 at RPLI_SEC 0025512.

299. Ripple’s decision to put some of its XRP into escrow was in part a response to the “overhang concern” third parties had regarding the amount of Ripple’s holdings of XRP. PX 14 (Griffin Tr.) 72:16-73:19, 321:11-322:1, 333:6-14; PX 3 (Griffin Inv. Tr.) 128:22-129:6.

300. Rapoport believed that Ripple “put a significant portion of its [XRP] holdings into escrow in part to address the market’s perception of an overhang.” PX 10 (Rapoport Tr.) 302:22-303:5.

301. In April 2017, the co-founder and managing partner of [REDACTED] emailed Garlinghouse and Griffin that “the prevailing consensus in the crypto investing/trading community is that XRP is uninvestable because most people know that Ripple has the flawed model of owning most of the [XRP] tokens and that Ripple sells \$XRP to keep the large head count / burn rate afloat.” PX 102 at 0352285.

302. In or around April 2017, a Ripple Board member met with other Ripple employees and she agreed that “there [wa]s a supply perception issue for speculators.” PX 103 at 0026955

303. In April 2017, Vias circulated to other senior Ripple employees an XRP escrow proposal with the objective of enhancing Ripple’s efforts to create “more XRP liquidity” and to respond to “the clear message we’re getting [] that the supply of XRP in the market is too uncertain for speculators to be comfortable being more active.” PX 105 at 2-3.

304. In May 2017, the XRP escrow proposal with the objective of enhancing Ripple’s efforts to create “more XRP liquidity” and to respond to “the clear message we’re getting [] that the

supply of XRP in the market is too uncertain for speculators to be comfortable being more active” was sent to Garlinghouse. PX 106 at 3-5.

305. In May 2017, Griffin sent Garlinghouse and other Ripple employees a proposal to escrow Ripple’s XRP intended to “address[] some structural headwinds facing XRP liquidity.” PX 104 at RPLI_SEC 0026844.

306. Rapoport noted that the “main goal” of a statement regarding Ripple’s settlement with a Ripple founder, McCaleb, governing the sale of his XRP was “to restore confidence in the market that founders won’t dump, so people feel comfortable owning XRP.” PX 107 at 0882487; PX 10 (Rapoport Tr.) 282:19-284:5, 302:3-21.

307. In a Bitcoin Talk post on or about May 27, 2017, Schwartz posted that Ripple had “consistently defended the XRP market from dumping by insiders.” PX 507.16. Schwartz admitted in testimony this meant that Ripple “wouldn’t be a bad actor,” because Ripple would be the largest holder of XRP for many years. PX 6 (Schwartz Dep. Tr.) at 321:17-325:13.

308. In May 2017, with Garlinghouse’s and Larsen’s approval, Ripple announced it would place 55 billion XRP into an escrow account that released 1 billion a month and to which Ripple would return any unsold XRP on a monthly basis. PX 80 (Ripple Ans.) ¶¶ 223, 24; PX 36 (Garlinghouse Inv. Tr.) at 216:10-21; PX 2 (Larsen Tr.) 376:12-21.

309. On or about May 16, 2017, Ripple announced that it would place 55 billion XRP into an escrow on the XRP Ledger. PX 80 (Ripple Ans.) ¶ 223,

310. Garlinghouse and Larsen were involved in Ripple’s decision to escrow 55 billion XRP. PX 80 (Ripple Ans.) ¶ 224; PX 36 (Garlinghouse Inv. Tr.) at 216:10-21.

311. As Chairman of Ripple’s Board, Larsen was part of the Board’s approval of Ripple’s decision to escrow 55 billion XRP. PX 2 (Larsen Tr.) 376:12-21.

312. Ripple and Garlinghouse made public statements regarding the formation of the XRP escrow. PX 80 (Ripple Ans.) ¶¶ 228, 277.

313. Ripple admits that, in May 2017, Ripple publicly announced that it would place 55 billion XRP into a cryptographically-secured escrow account by the end of 2017. PX 8 (Ripple RFA Responses) No. 78.

314. In a May 7, 2017 email, Vias wrote that XRP's recent price increase "seem[ed] to be driven by speculation around the lock up"—with "lock up" meaning Ripple's consideration of "cryptographically restricting access to [Ripple's] XRP"—and that "chatter around the lock up ha[d] played a very important role in XRP's appreciation" in the previous six to seven weeks. PX 112 at 0032680-81.

315. Vias and Schwartz mentioned the possibility of the escrow publicly in or around March 2017 in a podcast and on social media, and Vias believed that the "markets took much comfort in" Schwartz' comments and he observed that the price of XRP increased after his podcast comments. PX 21 (Vias Inv. Tr.) at 207:9-211:24.

316. Larsen believed that Ripple's escrow of 55 billion of its XRP enhanced trust in Ripple, by allaying any concerns that Ripple would dump its holdings of XRP. PX 2 (Larsen Tr.) at 376:12-380:23.

317. Larsen believed that any concern that Ripple would dump its holdings of XRP was unfounded in light of Ripple's "very good track record that should have mitigated any concern like that." PX 2 (Larsen Tr.) at 376:12-377:6.

318. Larsen believed it "seemed constructive, from a point of view of driving trust" in Ripple to put some of Ripple's XRP into escrow. PX 2 (Larsen Tr.) at 376:12-380:23.

319. According to Garlinghouse, Ripple’s purpose in escrowing a portion of its XRP was “to remove the concern that had been expressed that there was a risk that [Ripple] would dump XRP in the market.” PX 81 (Garlinghouse Tr.) at 421:20-422:1.

320. According to Samarasinghe, Ripple’s purpose in escrowing a portion of its XRP was “to provide surety to digital assets speculators that Ripple, the company, would not flood the market with XRP.” PX 22 (Samarasinghe Tr.) at 78:23-79:3.

321. On or around June 5, 2017, Garlinghouse sent an email to third parties addressing notable Ripple events from the previous month, including Ripple’s announcement of its commitment to escrow some of its XRP, describing Ripple’s decision to escrow 55 billion of its XRP as “giv[ing] investors a predictable supply schedule.” PX 114 at RPLI_SEC 0054398-99.

322. According to Zagone, Ripple escrowed a portion of its XRP to “give assurance to the market that [Ripple was] going to be a responsible player” and “would not flood the market with its XRP holdings.” PX 19 (Zagone Tr.) at 88:22-89:17.

323. According to Zagone, “[w]hen [Ripple] announced the escrow program,” XRP’s “price went up,” and the “market had more certainty around how [Ripple was] going to use or dispose of the XRP.” PX 19 (Zagone Tr.) at 91:9-15.

324. Larsen observed that the market reacted favorably to Ripple’s announcement of its intent to escrow a portion of its XRP, and that XRP’s price increased after the announcement. PX 2 (Larsen Tr.) at 376:12-381:18.

325. Vias believed that Ripple’s implementation of the escrow would have a positive impact on XRP’s price. PX 20 (Vias Dep. Tr.) at 160:5-163:22; PX 21 (Vias Inv. Tr.) at 348:25-349:6.

326. In a proposal that Ripple implement the escrow sent to Garlinghouse, Griffin explained that this effort was “geared towards securing speculative liquidity” and to “build liquidity

and build confidence in XRP, which would then be liquidity around the asset.” PX 3 (Griffin Inv. Tr.) at 201:19-207:5; PX 104.

327. The purpose of the escrow was to “build confidence” because “the overhang of XRP that Ripple held was...keeping people on the sidelines from participating in the XRP ecosystem as speculators or developers.” PX 3 (Griffin Inv. Tr.) at 199:17-200:4.

328. Ripple publicized its escrow of 55 billion XRP in an effort to “dispel” the “fear” that “Ripple was selling a lot of [of XRP] into the market. PX 17 (Long Tr.) 86:1-87:17.

329. According to Vias, the purpose of the escrow was “to alleviate concerns by speculators,” for the purpose of “increase[ing] speculation, which would help liquidity,” and the purpose of the “liquidity that comes from the more active speculation” was, “in the long run” for XRP’s use in payments. PX 21 (Vias Inv. Tr.) at 198:3-200:6; PX 115.

330. Garlinghouse described the escrow as consistent with Ripple’s “proven track record of being good stewards of XRP,” contrasting any uncertainty that Ripple might sell billions of XRP with the reality that Ripple’s “self-interest is aligned with building and maintaining a healthy XRP market.” PX 116.

331. One of Ripple’s objective in announcing its escrow program was to “create a second wave of excitement about the lock up amongst speculators.” PX 118 at 0376309-10.

332. Schwartz explained in a public chat forum in or around November 2017 that when Ripple releases XRP, “the overhang of XRP Ripple can release in the future is reduced.” PX 6 (Schwartz Tr.) 326:12-329:8; PX 508.26 *available at* <https://www.xrpchat.com/topic/11874-can-the-first-usage-of-xrapid-actually-flood-the-market-with-xrp/?do=findComment&comment=121864>.

333. As part of its efforts surrounding the announcement of its XRP escrow’s effectiveness in or around late 2017, Ripple’s market team aimed to “leverage influencers” who

would feel “compel[led] to share the news” of the escrow, including a list of “XRP retail/institutional evangelists.” PX 118 at 0376309.

334. Around the time that Ripple announced the implementation of its XRP escrow in or around December 2017, Ripple’s head of marketing emailed other Ripple marketing employees and Ripple’s public relations agency (the “P.R. Agency”) regarding “XRP rally – fast action needed,” noting that “XRP is rallying” and asked them to draft a series of public statement “to make hay while the sun shines.” PX 119.

335. In January 2018, Ripple’s Head of Investor Relations wrote to Garlinghouse and other senior Ripple employees re “Uptick in Inbound XRP Interest,” noting that “[s]ince the escrow announcement in early Dec,” and especially after XRP’s price passed 90 cents, “the traffic on the ‘How to buy XRP’ page has increased exponentially with inbound requests to XRPcontact@ripple.com surging.” PX 120 at 1049291; *see also* PX 85 (Ripple RFA Responses) Nos. 605, 606 (admitting Ripple maintained the email address XRPcontact@ripple.com).

336. In her January 2018 email re “Uptick in Inbound XRP Interest,” Ripple’s Head of Investor Relations further explained that visitors to Ripple’s website users reach XRPcontact@ripple.com “from the ‘How to buy XRP’ section” on Ripple’s website, which sends visitors to a link to contact Ripple and displays “the list of exchanges” on which to purchase XRP. PX 120.

337. Having observed an increase in XRP’s price, Larsen texted a Ripple Board member “good response to our lock up news so far” and texted another Ripple employee “They liked our xrp lock up!” PX 2 (Larsen Tr.) at 380:16-383:1; PX 121; PX 122.

338. Schwartz believed that “[i]f that overhang is priced in, having a downward effect, then the absence of that overhang could eliminate the downward effect,” and that the escrow was designed in part to “reduce that overhang effect.” PX 6 (Schwartz Dep. Tr.) at 326:12-329:8.

339. If Ripple crashed the market for XRP by selling a huge amount of XRP, it would hurt Ripple more than any other market actor, because a negative impact on the long-term price of XRP would mean that Ripple could not use its XRP for revenue or developing uses. PX 6 (Schwartz Dep. Tr.) at 345:7-348:3.

340. Ripple historically has acted in its own interest in not doing damage to the XRP ecosystem, because it has the incentive not to do so. PX 6 (Schwartz Dep. Tr.) at 345:7-348:3.

341. Ripple described itself as a “good steward” of XRP, because it did not dump XRP on the market or sold XRP in ways not to impact the XRP market, as Garlinghouse stated in an investor and adviser update he authored. PX 81 (Garlinghouse Dep. Tr.) at 418:17-421:1; PX 114 at 0054398-99.

342. On or about February 28, 2018, Will emailed Garlinghouse and proposed that Ripple use XRP reserves to satisfy its contractual and other obligations to deliver XRP through the xPring initiative in order to “maintain market positioning around the escrow so there isn’t additional overhang.” PX 335.

343. On or about June 9, 2020, Will emailed Garlinghouse and Ripple’s comptroller at the time and recommended measures to “offset other XRP distributions” from Ripple’s escrow to satisfy Ripple’s contractual and other obligations to deliver XRP to third parties in light of what Ripple’s controller described as “very bad optics from a dramatic change to our escrow return.” PX 455.

D. Defendants Marketed XRP as an Investment in Ripple’s Efforts to Find a “Use” for XRP.

(i) Ripple Has Publicly Distinguished XRP from Bitcoin and Ether on the Basis of the Existence of an Identifiable Actor—Ripple—that Can Make Efforts with Respect to XRP.

344. According to Schwartz, one difference between “XRP and other [crypto] assets” was that “there was an entity [Ripple] that held a significant amount of XRP that it didn’t have to expend funds to acquire.” PX 7 (Schwartz Inv. Tr.) at 131:8-18. In other words, “Ripple’s advantage was that it was gifted the XRP and didn’t have to spend capital or other types of funds in order to acquire it.” PX 6 (Schwartz Dep. Tr.) at 275:7-21.

345. Schwartz publicly stated that what “really set[s] XRP apart from any other digital asset” was the “amazing team of dedicated professionals that Ripple has to amass to develop an ecosystem around XRP.” PX 509.88, *available at*

https://www.reddit.com/r/IAmA/comments/80ppfl/i_am_david_schwartz_chief_cryptographer_at_ripple/duxgy6g/?context=1.

346. On or about February 25, 2016, in a post on XRP Chat, Schwartz stated: “Ethereum has very little in common with Ripple. Ethereum is much like Bitcoin (blockchain, mining) except it acts like a platform that you can easily write code for. The code can constrain how objects on the Ethereum blockchain behave and interact. It’s extremely cool technically, but it’s still not quite clear what the use cases will be.” PX 508.01, *available at* <https://www.xrpchat.com/topic/1019-what-is-ethereum/?do=findComment&comment=9111>.

347. On or about June 11, 2017, in a post on XRP Chat, Schwartz stated: “There are really two separate issues. One is whether Ethereum competes with XRP generally. The other is whether Ethereum competes with XRP for the specific use case that Ripple, the company, is targeting. While the former is a complicated question. The latter is much simpler. Settling

international payments requires a vast pool of liquidity and somebody has to finance creating that pool of liquidity. Ripple holds 60% of the XRP supply and has the ability to use as much of that as is needed to bootstrap the liquidity to target that use case. It's hard to imagine anyone spending huge amounts of their own money to do that for Ethereum. If you just need a pool of liquidity, and someone else is building it, why should you pay to build it?" PX 508.33, *available at* <https://www.xrpchat.com/topic/6233-ripple-vs-ethereum-not-the-price-but-the-merits/?do=findComment&comment=59437>.

348. On or about November 14, 2017, in a post on Reddit, Schwartz stated: "One thing we're definitely missing is a robust and inspired community of developers. Bitcoin obviously has that because of its adoption and the way it first ignited people's imagination about what blockchain could do. Ethereum has that because tremendous effort was put into communicating the idea that it was a programmable blockchain that could make anyone's distributed application real. We don't have that." PX 509.69 *available at* https://www.reddit.com/r/Ripple/comments/7cwa2n/check_out_sjoelkatzs_great_dissection_of_this_fud/dptl0pj/

349. On or about February 27, 2018, in a post on Reddit, Schwartz stated: "I think three things really set XRP apart from any other digital asset. One is the amazing team of dedicated professionals that Ripple has managed to amass to develop an ecosystem around XRP. The other is a focused use case for XRP and a coherent strategy to drive adoption for that use case. Last, the set of real customers finding business value in it. The history of technological innovation around the XRP Ledger speaks for itself." PX 509.88 *available at* https://www.reddit.com/r/IAmA/comments/80ppfl/i_am_david_schwartz_chief_cryptographer_at_ripple/duxgy6g/?context=1

350. Samarasinghe admitted that he was not aware of “any other actors in the crypto space that puts out on a regular basis – besides Ripple – detailed information about its holdings or sales in digital assets.” PX 22 (Samarasinghe Dep. Tr.) at 305:7-306:5.

351. In or around 2016, Griffin explained that there was no way for the U.S.-based crypto trading platform Kraken to charge someone to list Bitcoin or Ethereum on the platform, because, unlike XRP, those tokens lack a “central corporate administrator” (Ripple). PX 392.

352. In or around 2017, Schwartz publicly explained that there was “no player that plays Ripple’s role in XRP for Bitcoin or Ether,” meaning there was no known party that “both holds that larger fraction of the native asset and is sort of a participant.” PX 6 (Schwartz Dep. Tr.) at 293:10-14, 295:16-24, 325:13-24.

353. In or around 2017, Schwartz publicly stated that it was easier for Ripple to make efforts with respect to XRP because it had acquired XRP at no cost, as opposed to someone who wanted to acquire bitcoin and make efforts with respect to bitcoin, which would have to be mined. PX 6 (Schwartz Dep. Tr.) at 272:8-21, 275:7-21.

354. In and around 2017, Schwartz publicly stated that “[o]ne big advantage [Ripple has] is [Ripple] control[s] a lot of XRP and [Ripple is] heavily focused on promoting [XRP] in this way,” referencing Ripple’s promotion of XRP in connection with payments, and contrasting XRP with Bitcoin, where “[n]obody” had the kind of focus Ripple did vis-à-vis XRP in promoting Bitcoin in connection with payments. PX 6 (Schwartz Dep. Tr.) at 270:12-271:22.

355. In a discussion on or about November 27, 2017, regarding a potential blog post by Ripple, Griffin stated that “it seems like there’s an opportunity to specifically call out why XRP as opposed to, say BTC or ETH.” One of the reasons he suggested to support this distinction was the

fact that “[t]here is a fantastically-managed company, Ripple Inc., with a singular enterprise focus to make XRP the de facto digital asset to replace dormant capital in treasury operations.” PX 59.

356. In a set of internal talking points distributed in advance of an upcoming interview of Vias by a major news publication, Ripple’s P.R. Agency included a section entitled “Bitcoin vs. ETH vs. XRP.” The talking points highlight as one difference: “Governance: we’ve proven responsible stewardship of XRP and are very transparent about how it is distributed. BTC and ETH are controlled by miners with competing interests, leading to less predictability (hard forks, potential for a few miners to greatly impact the price, etc.).” PX 439 at RPLI_SEC 0200193.

(ii) Ripple Has Highlighted the Existence of a “Team” Dedicated to Working on XRP and the XRP Ecosystem.

357. OpenCoin’s Whitepaper included a list of its founders and team members as well as their prior experience including some members who had a prior relationship with Bitcoin. PX 158 at RPLI_SEC 0098238).

- a. OpenCoin’s Whitepaper contained a slide labeled “Business Model [.]Value of the Ripple Currency,” that displayed a graph of XRP/USD on the digital asset platform Bitstamp, and stated above the graph: “Early XRP results prove the viability of this model.” PX 158 at RPLI_SEC 0098251.

358. In Ripple’s Deep Dive brochure for September 2014, Ripple touted that it “continues to attract a diverse set of talented individuals with experience in relevant technology and financial services companies.” PX 365 at 17.

359. Schwartz posted on social media: “Ripple has a team of talented developers working on improving the scalability and reliability of the XRP Ledger.” PX 6 (Schwartz Dep. Tr.) at 337:11-340:7.

360. On or about February 27, 2018, David Schwartz made a post on Reddit, under the pseudonym Joel Katz, which stated:

I think three things really set XRP apart from any other digital asset. One is the amazing team of dedicated professionals that Ripple has managed to amass to develop an ecosystem around XRP. The other is a focused use case for XRP and a coherent strategy to drive adoption for that use case. Last, the set of real customers finding business value in it. The history of technological innovation around the XRP Ledger speaks for itself.

PX 509.88 *available at*

https://www.reddit.com/r/IAmA/comments/80ppfl/i_am_david_schwartz_chief_cryptographer_at_ripple/duxgy6g/?context=1.

361. Ripple’s various codes of conduct recognized that its employees might buy XRP “due to general confidence in Ripple Labs team members, and confidence in [Ripple] itself.” PX 79 at RPLI_SEC 03921184, PX 83 at RPLI_SEC 0885531.

(iii) Ripple Has Promoted Its Efforts to Pursue “Use” Cases for XRP and Other Efforts to Invest in the XRP Marketplace.

362. In addition to other public statements listed above, *see supra* § B, Ripple made statements referencing use cases for XRP, PX 80 (Ripple Ans.) ¶ 243, including the “use” cases Ripple would pursue.

363. Ripple’s talking points, distributed by email by its general counsel in or around 2017, for how Ripple employees should talk about XRP stated that employees “can absolutely (and should talk!) about all of the use cases for XRP that Ripple is supporting – and how [Ripple] efforts are directed towards those use cases.” PX 125 at RPLI_SEC 0624332. *See also supra* § B.

364. A 2019 XRP Market Report published on Ripple’s website announced an initiative called “xPring,” which was launched to “develop use cases for XRP.” PX 501.11 (2Q19 XRP Markets Report).

365. Based upon a Ripple Legal Department “cheat sheet” on “How we Talk About XRP,” including to influence regulators, Ripple’s 2017 talking points commanded employees that they “should talk ... about all the use cases for XRP that Ripple is supporting – and how [Ripple] efforts are directed towards those use cases.” PX 125 at 6.

366. In April 2020, Ripple posted that it was looking to boost XRP liquidity “through new use cases for XRP outside of cross-border payments.” PX 501.14 (1Q20 XRP Markets Report).

367. According to Vias, the purpose of Ripple trying to get an XRP derivatives product established, when that product was not used in connection with a Ripple product, was to attract more volume to XRP, including speculative and hedging volume. PX 21 (Vias Inv. Tr.) 268:12-269:24.

368. Ripple publicly announced its expansion of partnerships. PX 501.04 (3Q17 XRP Markets Report).

369. Ripple publicly stated that XRP was being used to “support” or “invest” in XRP “ecosystem” or “marketplace.” PX 501.10 (1Q19 XRP Markets Report).

370. Ripple publicly stated that an XRP escrow release was to “help support the XRP marketplace.” PX 501.08 (2Q18 XRP Markets Report).

371. In a February 2014 interview, Larsen stated:

We could have chosen to have a mining system but our belief is it would be better to funnel that money back into Ripple Labs, keep Ripple Labs well-funded so we keep hiring incredible cryptographers and engineers that can increasingly improve the protocol. That’s actually good for everybody. We have been incenting market makers with XRP forgivable loans. It incents big currency traders, high frequency traders to actually be active market makers on Ripple that provides liquid markets that’s good for everybody, gives them an incentive in the long term success of the network.

PX 503.01 *available at* <https://www.youtube.com/watch?v=SpdX36p6ao>

372. Ripple publicly stated that it was using the XRP not returned to escrow “in a variety of ways to help support the XRP ecosystem, including the RippleNet Accelerator Program and Xpring investments like Securitize.” PX 501.09 (4Q18 XRP Markets Report).

373. Ripple publicly stated that that the supply of XRP was fixed and finite, such that “no more XRP will ever be created.” PX 501.11 (3Q19 XRP Markets Report).

374. Rapoport explained that it is logically true that “[g]iven that there is a finite number of XRP, as demand for XRP grows, the value of XRP should appreciate.” PX 10 (Rapoport Tr.) 193:25-194:5.

(iv) Ripple Has Promoted Its Efforts to Increase XRP’s Demand.

375. Ripple explained that “demand for XRP may increase, leading to an increase in price.” PX 266 at 17, 45.

376. Ripple further stated that: “Ripple Labs’ business model is predicated on a belief that demand for XRP will increase, resulting in price appreciation) if the Ripple protocol becomes widely adopted.” PX 365 at 23.

377. On or about May 22, 2014, Larsen stated in an interview: “why is that important is that if the protocol is successful that digital asset will almost definitionally be successful as well...Long term primary use is something that enables market making which is helping to facilitate a medium of exchange and we think that’s probably like any currency or anything of value probably the most important source of demand.” PX 503.02 *available at* <https://www.youtube.com/watch?v=KkaS2G07NzQ>.

378. In or around May 2015, in response to concerns about XRP’s price, Ripple publicly articulated in an internet post its “vision” and stated that “[w]hat affects XRP price long-term is adoption of the [Ripple] protocol and growth of the ecosystem.” PX 96.

379. Larsen summarized this post as explaining that the “[l]ong-term price of XRP is affected by adoption of the protocol and growth of the ecosystem” and that Ripple had “made tremendous progress against [its] strategy of late, which is the real driver of value of the protocol and network.” PX 96.

380. In or around 2017, Schwartz believed XRP’s price was responsive or would be responsive to specific Ripple projects. PX 6 (Schwartz Dep. Tr.) at 345:7-348:3.

381. Schwartz noted that if more people want to use XRP, then its price will go up, that XRP’s value depended on Ripple’s good “stewardship,” perhaps as high as \$20 or \$120 or higher, depending on “how big you want to dream.” PX 509.19, 509.25, 509.01.

382. Schwartz publicly stated that “[i]f Ripple [wa]s successful getting XRP used as a vehicle asset” that “could significantly add to the demand for XRP.” PX 509.01; PX 6 (Schwartz Dep. Tr.) at 355:8-356:11.

383. In March 2017, Ripple told a potential investor: “There is a strong correlation between the usefulness/value of XRP and the adoption usage of Ripple’s technology.” PX 46 at RPLI_SEC 0156978.

384. Ripple also told the potential investor: “At the moment, liquidity is a limiting factor in XRP’s usefulness for financial institutions. We believe that by making XRP more liquid, the utility of XRP for payment providers and financial institutions will grow, thus increasing its value as a digital asset for value transfer.” PX 46 at RPLI_SEC 0156978.

385. Ripple also told the potential investor: “Demand for XRP currently comes from three types of market participants: 1) speculators who buy XRP in the market from exchanges or OTC, 2) payment providers, who are also natural hedgers, looking to use XRP for liquidity, and 3) liquidity providers, looking to make markets and earn spreads.” *Id.* at RPLI_SEC 0156979.

386. On or about June 22, 2017, Schwartz made a post on Reddit, which stated:

It all depends how big you want to dream. What if Ripple captures bitcoin's current market share? \$2[.] What if Ripple captures the value of all high-friction International payments that are now occurring? \$20 (You could add a multiplier to this for additional demand from people holding XRP to make or facilitate the payments in the future.)

PX 509.25 *available at*

https://www.reddit.com/r/Ripple/comments/6irghs/mathematically_speaking_what_is_the_highest_price/.

387. On or about July 26, 2017, in an interview on Bloomberg, Garlinghouse stated:

“XRP which is Ripple’s digital asset, I think the more utility you can derive from that the more use case you can derive, the more valuable they’ll be and some of these token offerings that was really unclear.” PX 503.03 *available at* https://www.youtube.com/watch?v=j7jW_c4qyo8.

388. On or about November 12, 2017, Schwartz made a post on Quora which stated:

If Ripple is successful getting XRP used as an vehicle asset in international payments, new corporates like Uber and AirBNB (who make payments all over the globe and want to make them as quickly and cheaply as possible) could significantly add to the demand for XRP. Why?

1. They can buy XRP at below market cost. Say they want to buy with USD. They just wait for someone to make a payment that’s bridged with XRP that delivers USD. They can provide the USD for delivery and take the XRP from the other side of the payment. Since they’re providing someone else liquidity, they’ll pay below market rate.
2. They can make payments funded from XRP at roughly half cost. Say they want to pay into a corridor that’s bridged by XRP. Since they already have XRP, they can save the cost of the “to XRP” half of the payment.

This means they’ll save money by holding piles of XRP sufficient to adapt the timing of these two operations, and they’ll be adding to XRP demand. These forces could be expected to increase the price of XRP. This same logic can apply to all kinds of companies that make payments around the world.

At least, that's what Ripple's betting on. After all, the reason we're doing this is to increase demand for XRP to increase the value we can extract from our stash of XRP.

PX 509.01 *available at* <https://www.quora.com/Considering-that-the-banks-dont-use-XRP-coins-for-their-transactions-how-can-the-XRP-price-go-high-even-if-the-banks-adopt-the-Ripple-platform>.

389. On or about September 8, 2017, Schwartz made a post on Reddit, under the pseudonym Joel Katz, which stated:

The usual rule is to think of all the value in existence that could be captured. So if XRP is targeted at removing inefficiency of international payments, then perhaps XRP could capture all the inefficiency in international payments as its value. That gets you roughly \$20.

However, there are two ways I can imagine it going higher:

1) Ripple is targeting XRP at eliminating inefficiency in international payments. But if XRP is highly liquid and efficient, other people might use it for other things. Ripple might even target other use cases. Thus XRP could capture other value.

2) If international payments become more efficient, there will be more of them, meaning there will be more value that XRP could capture.

PX 509.60, *available at*

https://www.reddit.com/r/Ripple/comments/6yruti/can_someone_elaborate_on_this/.

390. On or about October 25, 2019, Madigan tweeted: “New (and notable) data shows that although overall XRP trading volume was down nearly 65%, XRP/MXN volumes on Bitso went up more than 25% – during the same period of time that MoneyGram payments into Mexico using XRP went live. A real use case driving real volume.” PX 506.116 *available at*

<https://twitter.com/bremadigan/status/1164708850458595328>.

(v) Ripple Promoted Its Efforts in an Effort to Drive Up Demand for XRP

391. Ripple monitored XRP Chat used by the “XRP community,” which included “[v]arious parties engaged with XRP. PX 17 (Long Tr.) 43:13-45:2

392. XRP Chat was a forum where people discussed XRP and voiced “opinions on what was happening with XRP,” and was “a little bit like a finger on the pulse” to Vias. PX 21 (Vias Tr.) 118:1-119:8.

393. XRP Chat hosted “discussions about what was happening with respect to XRP broadly, [and] specifically anything [Ripple] was doing.” PX 21 (Vias Dep. Tr.) at 118:1-24; PX 508.01.

394. Vias posted on XRP Chat during the time he was a Ripple employee. PX 20 (Vias Dep. Tr.) at 119:13-19; PX 508.07, PX 508.09, PX 508.20, PX 508.34, PX 508.35, PX 508.36.

395. For example, on or about February 24, 2017, Vias posted on XRP Chat: “Quick question. Outside of banks using XRP, and higher prices, if there was one thing you would want us to do for XRP, what would it be? Can’t promise anything, but as someone who is responsible for driving our XRP strategy, I’m curious about what this group thinks.” PX 508.34 available at <https://www.xrpchat.com/topic/3085-what-would-you-like-for-xrp/>.

396. On or about March 19, 2017, Vias posted on XRP Chat: “Hey guys. Can’t give too many details, but I agree supply uncertainty is a big issue, and we’re working on a few things that are going to help clear things up. Good suggestions in here though. Must admit I love how much this community is constantly thinking of ways to help. It’s very refreshing. Thank you!” PX 508.07, available at <https://www.xrpchat.com/topic/3290-counteracting-the-%E2%80%98damocles-effect%E2%80%99/?do=findComment&comment=30956>.

397. In or around 2016, a Ripple employee emailed senior Ripple employees, including Garlinghouse, assessing “market reaction to XRP allocation announcement” in part by observing “robust discussion activity on the XRPchat thread.” PX 178.

398. Griffin told Garlinghouse in November 2017: “I think we should be doing more to show XRP is a superior store of value. Just like blue chip stocks, it’s a question of fundamentals.” PX 61.

399. Griffin testified that the purpose of sending out communications about recent developments with XRP was “to continue to point to the growth of this technology and to continue to...show the momentum of the technology and the adoption of it” and that the activity around the XRP price is “part and parcel to that.” PX 14 (Griffin Tr.) at 268:19-271:10; 314:14-316:20, 317:18-319:3.

(vi) Ripple Touted XRP’s Price Increases

400. In 2017, XRP’s price increased from \$0.0064 to \$2.3. PX 45 (Ferrante Decl.) Ex. 1.

401. In March 2017, Garlinghouse tweeted that XRP was “at [a] two year high!” and the next month that XRP was “up nearly 500% to date.” PX 506.062 *available at* <https://twitter.com/twitter/status/851588873780158465>.

402. On or about March 24, 2017, Ripple tweeted: “[the] price of #XRP continues to surge, showing that people are looking for #bitcoin alternatives via @CharlesLBovaird” and linked to the article on coindesk.com ‘Ripple Prices Surge to 4-Month High The price of Ripple’s XRP token surged to a more-than four-month high overnight, sparking trader notice.’ <https://t.co/Okbc71gKpk>.” PX 506.056 *available at* <https://twitter.com/Ripple/status/845347809830195200?s=20>.

403. On or about April 6, 2017, Ripple tweeted: “@bgarlinghouse on recent #XRP price rally. [@CharlesLBovaird](http://www.coindesk.com/use-or-speculation-whats-driving-ripples-price-to-all-time-highs/via) at @CoinDesk.pic.twitter.com/Z4QPOeZnW6.” PX 506.059 *available at* <https://twitter.com/Ripple/status/850030287891255296?s=20>

404. On or about April 10, 2017, Vias tweeted: “#XRP up nearly 500% year to date. April volume already \$700 million! <https://cointelegraph.com/news/investors-who-missed-bitcoin-rally-go-for-ether-monero-litecoin> #xrpthestandard @xrpchat.” PX 506.063 *available at* <https://twitter.com/miguelvias/status/851576182411739136?s=20>.

405. On or about April 10, 2017, Garlinghouse tweeted: “Retweeted @miguelvias, ‘2) #XRP up nearly 500% year to date. April volume already \$700 million! <https://cointelegraph.com/news/investors-who-missed-bitcoin-rally-go-for-ether-monero-litecoin> #xrpthestandard @xrpchat’.” PX 506.062 *available at* <https://twitter.com/twitter/status/851588873780158465>.

406. On or about May 4, 2017, Vias tweeted: “This move is clearly not only about #xrpthestandard but great to watch the markets include it in the rally. All coming together. @xrpchat.” PX 506.070 *available at* <https://twitter.com/miguelvias/status/860210746621407232?s=20>.

- a. On or about May 6, 2017, Schwartz tweeted that he and his wife “finally got to drink the champagne [they] were reserving for #XRP at \$0.10.” PX 506.071.

407. RESERVED

408. On or about May 16, 2017, Garlinghouse tweeted: “What appears to have finally tipped bitcoin below the 50% mark is the 24% surge of XRP, the token of the Ripple network.” PX 506.083 *available at* <https://twitter.com/bgarlinghouse/status/864682891812290560?s=20>.

- a. On or about December 22, 2017, Garlinghouse tweeted: “I’ll let the headline speak for itself. \$xrp bloomberg.com Bitcoin is So 2017 as Ripple Soars at Year End: Chart The rout in cryptocurrencies isn’t sinking all boats.” PX 506.118,

available at [Brad Garlinghouse on Twitter: "I'll let the headline speak for itself. \\$xrp https://t.co/RqtnvZWd0d" / Twitter.](https://twitter.com/BradGarlinghouse/status/938444444444444444)

409. In December 2017, Ripple's "internal draft message re how we talk about XRP" instructed Ripple employees to say: "XRP is up ___% today." PX 125 at RPLI_SEC 0624330.

410. The internal message document was created in response to "a large rally across crypto" in December 2017. PX 17 (Long Tr.) at 286:7-287:16.

411. That same month, Griffin emailed a potential XRP investor: "Wanted to share the article below about [REDACTED] largest stock rally in 9-years on the Nikkei driven by their [REDACTED] XRP exposure from their Ripple equity ownership...Great validation that the public markets value XRP and exposure to XRP through Ripple equity." PX 126.

412. Also in December 2017, Griffin tweeted an article entitled "Virtual currency 'Ripple' effect takes [REDACTED] to 9-year high." PX 127.

413. That same month, Long told the P.R. Agency: "XRP is rallying...We need to make hay while the sun shines," and asked the P.R. Agency to draft: (1) a tweet by an institutional XRP investor noting the "rally," (2) a tweet for Garlinghouse to announce that XRP would be listed on another exchange, (3) a press release noting the addition of a "BADASS!" Ripple employee to Ripple's Board, and (4) a "customer announcement." PX 119; *see also* PX 17 (Long Tr.) at 258:9-260:25.

414. In a December 2017 email, Garlinghouse told the P.R. Agency to "push aggressively" the "meme" that "XRP is the best performing (digital) asset in 2017. We are up more than 10,000% for the year." PX 128.

415. He added: "one more point: at today's XRP prices, Ripple is more valuable than every other private company in silicon valley except Uber." *Id.*

416. In December 2017, Garlinghouse told the Ripple Board (which included XRP holders): “I feel great about our market position and am proud of the team we’ve built...This week...has been extraordinary! The price of XRP is up ~200% since Monday, trading volumes have exceeded \$6 billion over the past couple of days and with XRP’s market cap at ~\$75 billion, Ripple is the most valuable private company in Silicon Valley behind Uber Uh, wow!...XRP is the best performing of any other digital asset – up more than 12,000% in 2017. In fact it is almost certainly the best performing asset in any asset class!” PX 134 (emphasis in original). Garlinghouse added: “XRP’s rise over the course of this year signals market expectations of our company.” *Id.*; see also PX 135 (explaining rising “expectations on Ripple” from increased XRP price).

417. The 1Q18 XRP Market Report noted XRP was up 100% from December 11, 2017. PX 501.06 at 2.

418. The 3Q18 XRP Market Report noted a price “rally.” PX 501.12 *available at* <https://ripple.com/insights/q3-2019-markets-report/>.

419. The 2Q19 XRP Market Report noted XRP’s “28.2%” price increase during the prior quarter. PX 501.11 *available at* <https://ripple.com/insights/q2-2019-xrp-markets-report/>.

420. In March 2017, a representative of the P.R. Agency emailed Long and Garlinghouse: “We’re going to publish the following Tweet from Ripple to take advantage of the continued XRP increase.” PX 124 at RPLI_SEC 0461957.

- a. The referenced Tweet stated: “The price of XRP continues to surge, showing that people are looking for bitcoin alternatives...” *Id.*
- b. In response, Long proposed asking an individual “who has significant positions in XRP who’s respected in the world of Bitcoin or trading more generally” to “comment on Twitter too.” *Id.*

c. Long also asked: “Can we get any of our exchanged partners...to comment.” *Id.*

Long proposed comments that “could be neutral or more of an endorsement”

including: “Encouraged by #XRP’s rally.” *Id.*

d. Garlinghouse responded: “LOVE the idea!” *Id.* at RPLI_SEC 0461956.

(vii) Ripple Publicly Tied Increases in XRP’s Price to Ripple’s Efforts.

421. The 1Q17 XRP Markets Report stated: “On March 23, XRP rallied from \$0.0072 to \$0.0112, a 56% price increase on an impressive \$19.7M in volume.” Ripple noted that “a few key developments may have had an impact” in this “powerful shift in sentiment” including that “[t]hroughout the quarter, Ripple, became more vocal...about its commitment to XRP...and the Ripple Consensus Ledger (RCL) as part of its long term strategy,” “Ripple announced a new relationship with Bitgo” and “Ripple continued to sign up banks to commercially deploy its enterprise blockchain solution.” PX 501.02; *see also* PX 85 (Ripple RFA Responses) No. 429 (admitting this report was posted on Ripple’s website).

422. The 2Q17 XRP Markets Report highlighted the “dramatic” and “stunning” XRP price increase of 1,159% from the prior quarter, and noted that the market had “responded favorably to [Ripple’s] escrow and decentralization announcements in particular. They both laid out clear plans for Ripple to address the top concerns about XRP, building the market’s trust in Ripple and XRP.” PX 501.03 at 2; *see also* PX 85 (Ripple RFA Responses) No. 432 (admitting this report was posted on Ripple’s website).

423. The 3Q17 XRP Markets Report noted XRP was “still up 2,963%” from the previous year despite a recent drop, and attributed the price increase to Ripple’s “campaign around Swell,” an annual Ripple event. PX 501.04 at 2–4.

424. The 4Q17 XRP Markets Report reported that XRP increased “29,631 percent” year-over-year price, noting that “XRP markets began to connect the dots once again,” referencing Ripple’s announcements of business partnerships and the activation of the XRP escrow. PX 501.05 at 1–2.

425. On or about January 11, 2017, in a post on Reddit, Schwartz stated: “Whether or not XRP is decentralized depends on what you mean by decentralized. Yes, Ripple holds more than half the XRP in existence. In that sense, XRP is not decentralized. But that means that Ripple can justify spending \$100 million dollars on something if it would be expected to increase the long term price of XRP by a penny.” PX 509.04, *available at*

https://www.reddit.com/user/sjoelkatz/comments/?sort=new&after=t1_dmwurxl&count=275.

426. On or about January 18, 2017, David Schwartz made a post on BitcoinTalk.org, under the pseudonym Joel Katz, which stated:

On the other hand, we do hold an awful lot of XRP. We could, for example, crash the market for XRP by selling a huge amount in a short period of time. That would hurt us more than anyone else. And our conduct has demonstrated to date precisely the opposite – we’ve worked to lock up XRP and we’ve discussed our plans for how we’ll release XRP to the world. But, of course, we remain free to follow our own interests as we see them. That is a big difference between XRP and many other assets. If you think we will be good stewards and our plans are likely to build demand, then you will tend to expect the price to go up. If you think we will screw it up, abandon XRP, or fail for some reason, then you will tend to expect the price to go down.

PX 507.13, *available at*

<https://bitcointalk.org/index.php?topic=1752760.msg17542422#msg17542422>).

427. In February 2017, Vias emailed an XRP investor: “As for the price [of XRP] I have no idea in the short to medium term. The truth is our market is too small right now to have a good sense of where the price is going in the short term. What I can tell you is that if we execute this year I will be really surprised if the price stays where it is.” PX 179. Vias also told the investor about the

Ripple team: “The team is SO strong...They work so hard and are so smart sometimes it feels like there is no way we can lose.” *Id.*

428. In March 2017, in response to an inquiry by a crypto publication about “the recent surge in market capitalization of Ripple, Vias suggested the following response: “While the recent surge in XRP is certainly influenced by BTC scalability issues, clearly much of the recent momentum is do [sic] to the announcement that [REDACTED] joined Ripple’s steering group, GPSG.” PX 136.

429. In March 2017, Vias told a reporter asking about XRP’s “sharp gains” in price “79% over the last 24 hours”: “Interest from Asia in the last 24 hours...seems to stem from the [REDACTED] announcement.” PX 137.

430. On or about April 2, 2017, CoinTelegraph published an article which stated: “Ripple Head of XRP Markets, Miguel Vias, tells Cointelegraph: ‘While the recent surge in XRP is certainly influenced by Bitcoin’s scalability issues, much of the recent momentum is due to the announcement that MUFG joined Ripple’s steering group, GPSG. Unlike other digital assets, XRP has a clear use case and people are beginning to recognize that.’” PX 502.01, *available at* <https://cointelegraph.com/news/ripple-price-surge-continues-altcoin-takes-advantage-of-bitcoin-scaling-troubles>

431. In April 2017, Garlinghouse was interviewed by a crypto news site for an article entitled “Use or Speculation: What’s Driving Ripple’s Price to All Time Highs?” In the article, Garlinghouse explained his view that the “significant rally in XRP prices” was “reflective of a lot of work we have done to make Ripple a very compelling solution.” PX 502.08, *available at* <https://www.coindesk.com/markets/2017/04/06/use-or-speculation-whats-driving-ripples-price-to-all-time-highs>.

432. In April 2017, Vias shared “some commentary on the recent XRP rally” with a potential investor, noting that XRP “had a record-setting week...It traded at a high of \$0.075 on April 2nd and then held at \$0.03 through the latter half of the week....At \$0.03, XRP is approximately five times greater than it was just two weeks ago....Year to date, XRP is up 520%.” PX 129.

433. In April 2017, Ripple sent similar commentary to others. PX 130 at RPLI_SEC 0030279–80; *see also* PX 131, 132, 102, 133.

434. On or about May 3, 2017, Ripple tweeted: “#Ripple adoption is sparking interest in XRP ‘which has had an impressive rally in the last two months’ via @Nasdaq <http://www.nasdaq.com/article/altcoins-steal-the-spotlight-as-bitcoin-reaches-new-highs-cm782930>.” PX 506.069, *available at* <https://twitter.com/Ripple/status/859904105916923904?s=20>.

435. On or about May 3, 2017, David Schwartz made a post on BitcoinTalk.org, which discussed XRP’s increase in price and stated: “I have devoted the last five years of my life to Ripple, and now work together with over 100 full-time employees who are devoted to making global payments work better. While I concede I can’t prove that this increase in price isn’t a bubble or isn’t the result of some pump and dump attempt, to me it feels like recognition for the effort the team has put in all these years.” PX 507.20, *available at* <https://bitcointalk.org/index.php?topic=1381669.msg18859629#msg18859629>

436. On or about June 27, 2017, Garlinghouse tweeted: “#XRP has remained fairly steady while some digital assets plummet this week. Shows it matters to have real-world use cases.” PX 506.094, *available at* <https://twitter.com/bgarlinghouse/status/879693042420137984?s=20>.

437. On or about July 1, 2017, in a post on Reddit, Schwartz stated:

What's important is to use an asset with deep pools of liquidity. It's unlikely that banks will build them at their own expense (they aren't now, that's why corporations have to keep nostro accounts all over the place). Ripple has a huge incentive to build them for XRP though -- Ripple can justify spending \$100 million to build a pool of liquidity even if there's no direct profit for Ripple if it can reasonably be expected to raise the price of XRP by a penny over the long term.

PX 509.35, *available at*

https://www.reddit.com/r/Ripple/comments/6kmtwv/as_much_as_i_love_xrp/djnv4xf/

438. On or about July 6, 2017, in a post on XRP chat, Schwartz stated:

There is a huge advantage to having one entity that holds a significant fraction of an asset. Ripple could spend \$100 million on something that has no conventional way of creating revenue, but if it pushed the price of XRP up by one penny over the long term, Ripple would massively profit. Nobody has that kind of concentrated interest in any coin distributed primarily by mining. The money that would have gone to pay for ASICs and electricity to mine the asset instead goes to building the liquidity and technology to make XRP attractive for the use case Ripple is focused on. There are things an asset that isn't mined can do that an asset that's mined cannot do because of this difference. Let me give you a stark example. The Bitcoin foundation has been trying to raise funds to combat New York's BitLicense regulation. On April 10, 2017, they announced that they needed to raise between \$100,000 and \$200,000 and that the first hearing was May 4. Likely these efforts would benefit many bitcoin users and holders, but nobody has a concentrated enough interest to pay the bulk of the funds. This a clear example of a public good free rider problem -- everybody is worse off if nobody contributes, but nobody has a strong individual incentive to contribute. Everyone wants to be the only one who doesn't contribute. As of today, more than one month past that hearing, they've raised about 3 BTC. How much do you think Ripple can (and does) spend on regulatory issues critical to using XRP for its use case? The reason is obvious -- keeping the regulatory way clear for XRP's use for settlement makes a huge difference to Ripple, the company, specifically.

PX 508.18, *available at* <https://www.xrpchat.com/topic/7054-how-do-you-like-your-misinformation-please-feel-free-to-correct-him/?do=findComment&comment=67173>

439. On or about September 12, 2017, David Schwartz made a post on Reddit, under the pseudonym Joel Katz, which stated:

It's important to understand that Ripple is primarily VC financed and while we do sell XRP, we primarily use our XRP as a strategic asset to incentivize partners. It is clearly in our economic interest to do things that will increase the value of XRP over the long term.

We've explained clearly why we believe that our payment network will create a tremendous need for a new intermediary asset, why that asset is likely to be a digital asset, why XRP is well-positioned to be that asset, how Ripple will work to get XRP adopted for this purpose, and why that would be expected to create demand for XRP.

It's perfectly fair, of course, to disagree with any part of that logic or to question the likelihood of the plan as a whole succeeding. I would suggest people look closely at our history of successful execution and the amazing group of people we've managed to put together.

PX 509.09, *available at*

https://www.reddit.com/user/sjoelkatz/comments/?sort=new&after=t1_dmwurxl&count=275.

440. On or about July 15, 2017, in a post on Reddit, Schwartz stated:

It is theoretically possible that Ripple could pivot in some way away from XRP. The company has not made any kind of formal commitment to XRP in perpetuity. However, Ripple is currently the largest holder of XRP and likely to remain so for the foreseeable future. Ripple can justify spending \$100 million on a project if it could reasonably be expected to increase the price of XRP by one penny over the long term. So unless you think Ripple is attempting the impossible, it's hard to give any credibility to the possibility that Ripple would abandon its most valuable asset. Ripple's interest closely (but, yes, not perfectly) align with those of other XRP holders.

PX 509.41, *available at*

https://www.reddit.com/r/Ripple/comments/6ng5km/for_people_asking_about_coin_vs_protocol/dk9nh7e/.

441. In August 2017, Vias noted on an investor forum: "Our vision is literally world changing, and the last thing we are worried about is the price going up. That's a forgone conclusion if we continue to focus on the work, which is exactly what we're doing." PX 508.20, *available at*

<https://www.xrpchat.com/topic/8282-is-miguel-vias-in-xrpchat/?do=findComment&comment=79213>; PX 20 (Vias Dep. Tr.) at 129:6-132:21.

442. In an October 8, 2019 interview, Garlinghouse stated: “Ripple owns a lot of XRP. We own about 55 percent of all XRP, so clearly we’re very interested in the health and success of that ecosystem, but it is an open-source technology that Ripple uses in its technical stack ... We also...own a lot of this digital asset. Anything we do that’s good for that digital asset is good for us.” PX 503.18, *available at* <https://www.youtube.com/watch?v=1U6ZiOyX2TA>.

443. On or about October 18, 2017, in an interview hosted by Ripple and posted on Ripple’s youtube channel, Garlinghouse stated: “I’m not focused on the price of XRP over three days or three weeks or three months. I’m focused on the price of XRP over three years and five years. I have no qualms saying definitively if we continue to drive the success we’re driving, we’re going to drive a massive amount of demand for XRP, because we’re solving a multi-trillion dollar problem.” PX 503.04, *available at* <https://www.youtube.com/watch?v=bXYvGVcAweQ>.

444. In an interview on or about November 1, 2017 on CNBC, Garlinghouse stated: “On a personal basis, I’m long BTC, Bitcoin. I guess technically I’m long Bitcoin cash, but I’m also long XRP.” PX 503.06, *available at* <https://www.youtube.com/watch?v=xFcnETkL2J8>.

445. On or about November 20, 2017, David Schwartz made an XRP Chat post which stated: “When Ripple gets cash for XRP, that increases Ripple’s ability to execute on its plans for XRP. If the probability of Ripple’s successful execution of its XRP strategy is part of the price of XRP, then growth in Ripple’s war chest should put upward pressure on the price.” PX 508.26, *available at* <https://www.xrpchat.com/topic/11874-can-the-first-usage-of-xrapid-actually-flood-the-market-with-xrp/?do=findComment&comment=121864>).

446. In an interview on or about December 14, 2017 on Bloomberg, Garlinghouse stated: “I’m long XRP, I’m very, very long XRP as a percentage of my personal...balance sheet... if you’re solving a real problem, if it’s a scaled problem, then I think you have a huge opportunity to continue to grow that. We have been really fortunate obviously, I remain very, very, very long XRP, there is an expression in the industry HODL [Hold On for Dear Life], instead of hold, its HODL . . . I’m on the HODL side.” PX 503.07, *available at* https://www.youtube.com/watch?v=iS8_C615Pg0 (“HODL” refers to a crypto investing term that means “Hold on for Dear Life”—meaning an investor is holding the asset for the long-term despite volatile price gyrations).

447. Garlinghouse testified: “I’m going to parse the word investment there in that some people consider holding dollars an investment. Some people consider holding the Japanese yen investment. In that context, I consider my holdings in bitcoin an investment and I consider my holdings of XRP something that I have economic interest in and therefore an investment.” PX 36 (Garlinghouse Inv. Tr.) at 174:24-175:6.

448. Garlinghouse publicly stated that he was “long XRP ...very, very long XRP as a percentage of [his] personal ...balance sheet,” meaning that he “had economic exposure to the underlying asset XRP and was a long-term believer and holder of the potential appreciation of [XRP].” PX 36 (Garlinghouse Inv. Tr.) at 174:4-175:6.

449. An article in August 2018 in the Financial Times quoted Garlinghouse as saying: “We are a capitalist, we own a lot of XRP.” PX 502.06, *available at* <https://www.ft.com/content/7d9c934f-3840-4285-96a7-4bdf7fee9286>.

450. On or about January 5, 2018, Griffin tweeted: “Retweeting @WSJ [Wall Street Journal] stating, ‘While sharp price moves have become the norm among virtual currencies, Ripple’s

1,184% surge is surprising because of its differences with bitcoin.” PX 504.36, *available at* <https://twitter.com/WSJ/status/949320212079370241>.

451. In a March 12, 2018 interview, Garlinghouse stated:

I don’t think about the price of XRP every 3 days, or 3 weeks, or 3 months. What Ripple is doing in enabling an internet of value, this is a 3 plus year journey. What I know for certain is that if we continue to build the momentum of costumer usage, that continues to drive the velocity and demand for XRP, over a 3 plus year time frame, I feel very comfortable about the opportunity to grow the value of the XRP ecosystem. In an interview on or about September 10, 2020, a Ripple employee stated that investing in the top tier cryptos are “moonshot opportunities” where “it could go to 0 or you could make 100x.”

PX 503.22 at 8:25-9:11, *available at* <https://www.youtube.com/watch?v=bp25ZkbMwlU>.

452. In another interview on or about March 12, 2018, Garlinghouse stated:

[O]ur goal is to develop an incredibly healthy XRP ecosystem. We own about 60 percent of all XRP. I am the most interested person, as CEO of Ripple, in making sure the XRP ecosystem is successful, making sure that not just Ripple is successful building tools to leverage the liquidity and leverage the velocity of XRP, but also looking at other use cases to leverage the XRP ledger...know for certain is if we can continue to build a momentum of customer usage that continues to drive the velocity and demand for XRP over a three-plus-year timeframe, I feel very comfortable about the opportunity to continue to grow the value of the XRP ecosystem, which is good for all of the participants in the XRP ecosystem.

PX 503.11, *available at* <https://www.youtube.com/watch?v=u3LT9xSwbp0>.

453. On or about August 22, 2019, Madigan made a post on Twitter which stated: “New (and notable) data shows that although overall XRP trading volume was down nearly 65%, XRP/MXN volumes on Bitso went up more than 25% - during the same period of time that MoneyGram payments into Mexico using XRP went live. A real use case driving real volume.” PX 506.116, *available at* <https://twitter.com/BreMadigan/status/1164708850458595328>.

454. On or about October 25, 2019, Madigan tweeted: “Oh Hello, Friday rally !” PX 506.117, *available at* <https://twitter.com/BreMadigan/status/1187759022683967488?s=2>.

455. On or about December 7, 2020, Madigan stated that XRP could “outperform” other investments by 15% if it achieved “3% exposure” to the trillions that XRP is “solving for.” PX 502.07, *available at* <https://www.cointrust.com/market-news/ripple-global-head-breanne-madigan-xrp-addresses-real-world-fund-transfer-issues>.

(viii) Ripple Understood Its Public Statements About XRP’s Price Increases Could Make XRP More Attractive to Speculators and Benefit Ripple.

456. Schwartz understood that his public statements about potential increases in XRP’s price could make XRP more attractive to speculators. PX 6 (Schwartz Dep.) at 355:2-14.

457. Ripple stated that it would depend on XRP because it would sell the token to fund itself and would “massively profit” if XRP’s price went up. PX 14 (Griffin Dep. Tr.) at 35-36, 47-50; PX 265 at 19; PX 52 at 20.

458. On or about July 6, 2017, Schwartz made an XRP Chat post, stating:

There is a huge advantage to having one entity that holds a significant fraction of an asset. Ripple could spend \$100 million on something that has no conventional way of creating revenue, but if it pushed the price of XRP up by one penny over the long term, Ripple would massively profit. Nobody has that kind of concentrated interest in any coin distributed primarily by mining. The money that would have gone to pay for ASICs and electricity to mine the asset instead goes to building the liquidity and technology to make XRP attractive for the use case Ripple is focused on.

PX 508.18, *available at* <https://www.xrpchat.com/topic/7054-how-do-you-like-your-misinformation-please-feel-free-to-correct-him/?do=findComment&comment=67173>.

459. Schwartz testified that if Ripple spent \$100 million in pushing the price up by one penny, “[t]hat could lead to increase in Ripple’s profits, both from sales and from other means of using XRP on its balance sheet.” PX 6 (Schwartz Dep. Tr.) at 274:15-275:2.

460. On or about December 14, 2017, during an internal all company meeting, Garlinghouse stated:

I've been stressed because every time the price of XRP goes up, the expectations on everyone in this room go up. The expectations on me go up. The expectations that everyone has about what Ripple is trying to do goes up. Now, to be clear, I do not think what's going on in the XRP markets is a direct reflection of everything going on at Ripple. That is not a one to one thing, right? The XRP markets get excited about some stuff, you're like, okay, you know. Crypto Kitties? Not sure what to do with that. But the way I think about this is, you know, I'd say five years ago the company started. We planted a seed that we wanted to grow into an internet of value. A few years ago we decided hey, it's not just an internet of value but it's also, let's really focus on banks. And that tree has started to grow. What has happened now is the height of that tree has gotten really high. But the trunk of the tree hasn't grown as fast as the height of the tree. This happens in Silicon Valley, right? Companies grow really quickly but the infrastructure underneath those companies doesn't necessarily scale as quickly as the business and as, you know, some reflection of the business, externally So what stresses me out is the height of the tree, the expectations are really high. The trunk hasn't built out, and everybody in this room needs to help build out that trunk. We've got to invest in the trunk. We've got to invest in the pieces to make sure that we're in a position to deliver on those high expectations. The good news is we are trying to do something pretty profound, and the expectations can and maybe even should be really high, because we're making great progress.

PX 135 (Transcript of RPLI 1100541) at Tr. 4:11-4:20.

(ix) Ripple Told the Market that Its Efforts Would Continue for the Foreseeable Future.

461. On or about February 19, 2014, in an interview sponsored by Money and Tech,

Larsen stated:

Ripple Labs, because we do not have to reimburse validators, started off with the biggest chunk of XRP and one of our key roles is to make sure we distribute it broadly in a way that adds as much utility and liquidity as we possibly can.

I think our incentives are very well-aligned...that for Ripple Labs to do well, we have to do a very good job in protecting the value of XRP and the value of the network. And that really is the guiding principle here. In our distribution of XRP, which is kind of a short term thing...that will run its course; it's kind of the initial distribution -- the objective is, how do you bring as many market makers, gateways, market places, bridges, incentive partners, bring as many consumers as you possibly can, hosted wallets as you

can. And we think that's actually a really good tool that Ripple Labs has to add value.

You know, for those that are skeptical, I would just say, it's a different approach. Give us time. Hopefully we will earn their trust over time, that we are doing this in a way that adds the most value to the protocol.

PX 503.01, available at <https://www.youtube.com/watch?v=SpdX36p6ao>.

462. On or about July 15, 2017, in a post on Reddit, Schwartz stated:

XRP is XRP. If Ripple is successful in positioning XRP as a settlement asset, it will be the same XRP that circulates now.

It is theoretically possible that Ripple could pivot in some way away from XRP. The company has not made any kind of formal commitment to XRP in perpetuity. However, Ripple is currently the largest holder of XRP and likely to remain so for the foreseeable future. Ripple can justify spending \$100 million on a project if it could reasonably be expected to increase the price of XRP by one penny over the long term. So unless you think Ripple is attempting the impossible, it's hard to give any credibility to the possibility that Ripple would abandon its most valuable asset. Ripple's interest closely (but, yes, not perfectly) align with those of other XRP holders.

PX 509.41, available at

https://www.reddit.com/r/Ripple/comments/6ng5km/for_people_asking_about_coin_vs_protocol/dk9nh7e/.

463. In testifying about the above July 15, 2017, Reddit post, Schwartz admitted that this meant was that "there is some alignment of incentives between Ripple and other XRP holders," that they would both have "interests in price" over different time horizons, and "both would want more liquidity for XRP." PX 6 (Schwartz Dep. Tr.) at 296:4-22.

464. On or about November 21, 2017, in a post in Reddit, Schwartz stated:

I'll tell you what I think the biggest risks are:

Someone else does almost exactly the same thing Ripple does, but does it better. This is mitigated by the fact that Ripple has such talented people and has a lead. But you never know.

Unfavorable regulatory changes make Ripple's business model impractical. Perhaps some regulators deem XRP to be a security and therefore only salable to sophisticated investors or something like that. This is mitigated by the fact that Ripple can target friendlier jurisdictions, but losing big ones would be damaging.

Some serious technical problem is found in the XRP ledger system and neither Ripple or anyone else is able to fix it. This seems unlikely to me, but again, you never know.

Some horrible personal or business scandal affects key Ripple people such as Chris Larsen or Brad Garlinghouse or the company itself and the company becomes too toxic for FIs to do business with. Again, I don't think this is likely, but you never know.

Someone comes up with a better way to bridge international payments than using a digital asset and Ripple is unable to position XRP for another use case and abandons XRP. I don't know of any better way, but as with the others, you never know.

PX 509.78, *available at*

https://www.reddit.com/r/Ripple/comments/7ehy33/xrp_will_go_to_0_because/dq6c8bw/.

465. Schwartz also admitted that it remained true at the time of his deposition in 2021, as he had stated in the July 15, 2017, Reddit post, that XRP is likely to remain Ripple's largest asset for years and would almost certainly hold the largest share of XRP for years. PX 6 (Schwartz Dep. Tr.) at 297:5-11.

466. Schwartz also admitted that XRP market participants' expectation is that, for the foregoing reasons, Ripple would not abandon XRP or the XRP Ledger "suddenly, or ... for no rational reason." PX 6 (Schwartz Dep. Tr.) at 298:4-19.

467. On or about December 14, 2017, Ripple posted a video on its YouTube channel in which Garlinghouse stated:

We are just getting started. We're in the early innings. . . I'm incredibly excited by the progress we made in 2017. We had an "All Hands" [meeting] earlier today talking about how it's the earliest innings. And you know the progress we've made in cross border payments is one piece of that internet of value puzzle. And I look ahead and I

can see many many years of growth in the core of what we're doing as well as other vertical opportunities."

Priority one is definitely around volume. Priority two, I would say, is XRP liquidity. Making sure that on a global basis, as we continue to work with exchanges globally and market makers, making sure we are doing everything we can to make XRP successful on a liquidity basis. Priority three which admittedly is kind of a newer priority and something we'll work on more in 2018, is investing in other use cases for the XRP ledger.

PX 500.28, *available at* <https://ripple.com/insights/ask-anything-brad/>.

468. On or about December 27, 2017, in an interview sponsored by Bloomberg, Garlinghouse stated: "There's 100 billion units of XRP that were created. We own about 61% of them. I think you know there's no doubt that 2017 has been amongst other things the Year of Crypto. And within the Year of Crypto, XRP has outperformed every other digital asset out there. So year to date as that chart showed we are up about twenty thousand percent. [Interviewer:] That gives you, what, about \$75 billion worth of coin right now? [Garlinghouse:] That gives us a huge strategic asset to go invest in and accelerate the vision we see for an internet of value that I was describing earlier. For me this is all about you know an opportunity to participate and accelerate a vision we've had for some time." PX 503.08, *available at* <https://www.youtube.com/watch?v=5TtaF3D6G2Y>.

469. On or about March 14, 2018, Garlinghouse stated at a press conference: "I point out that Ripple is very, very interested in the success and the health of the ecosystem and will continue to invest in the ecosystem." PX 503.13, *available at* <https://www.youtube.com/watch?v=JOAuXEYU9Pg>.

470. Garlinghouse said in interviews that Ripple would "continue to invest" in the XRP ecosystem and that Ripple was "just getting started" in its efforts. PX 506.119; PX 503.13.

E. Ripple Undertakes and Touts Its Significant Efforts to First Create and then Maintain Liquid Trading Markets for XRP, Including Managing Information about XRP in the Market.

471. A “precondition” to Ripple’s product strategy was having liquidity between XRP and various fiat currencies. PX 81 (Garlinghouse Dep. Tr.) at 298:25-299:21, 305:14-308:20.

472. In 2015, a Ripple employee wrote a paper which stated: “XRP’s value is tied directly to its liquidity...XRP becomes more valuable as its liquidity increases.” PX 57 at RPLI_SEC 0364717-20.

473. RESERVED.

474. On or about June 26, 2016, Griffin emailed Birla: “My end-of-week leadership note is designed to restate the role of XRP in our company strategy and projects currently underway to build liquidity for XRP.” PX 464 at 0042714.

475. Ripple devoted an “XRP markets team,” led by Vias from November 2016 through April 2020, to grow XRP market liquidity. PX 80 (Ripple Ans.) ¶¶ 23, 198; PX 21 (Vias Inv. Tr.) at 14:4-15:21; PX 20 (Vias Dep. Tr.) at 21:14-22:15, 141:13-15; PX 14 (Griffin Dep. Tr.) at 251:11-253:2; PX 153.

476. On or about January 10, 2018, Long wrote an email to Ripple’s Board of Directors which stated: “Liquidity across currency pairs is important for XRP to function as a highly-efficient settlement asset in cross-border payment flows” and “Speculators play an important role in building XRP liquidity.” PX 39 at 221962-63.

477. RESERVED.

478. Ripple touted the “liquid and robust markets” for XRP as late as August 2020. PX 501.15.

(i) Ripple Made Efforts to List XRP on Crypto Trading Platforms or “Exchanges” as Part of Its Efforts to Build Liquidity.

479. Crypto trading platforms that offered XRP for trading were a “pillar” of Ripple’s products because they provide liquidity. PX 16 (Birla Inv. Tr.) at 215:13-216:1.

480. Ripple’s “needed liquidity and liquidity [was] facilitated by crypto exchanges.” PX 15 (Birla Dep. Tr.) at 86:15-24.

481. In an email to Long and Griffin in December 2017, Garlinghouse noted that he preferred to state publicly that “exchange listings are critical” for a “healthy XRP ecosystem,” and that “having XRP listed at as many global ... exchanges as possible is a critical component of delivering on our vision.” PX 41 at RPLI_SEC 54865.

482. Ripple wanted to list XRP on crypto trading platforms so that it would be easier to purchase XRP. PX 18 (O’Gorman Tr.) at 343:23-346:13.

- a. In approximately January 2018, Ripple posted on its website the “Top 9 Frequently Asked Questions About Ripple and XRP,” with the first question being “How do I buy XRP?” and the following answer: “XRP is available for purchase on more than 60 digital asset exchanges worldwide, many of which are listed on this page [link provided].” PX 500.20. The post also stated: “In order to maintain healthy XRP markets, it’s a top priority for Ripple to have XRP listed on top digital asset exchanges.” *Id.*

483. Around 2017, Ripple’s XRP markets team understood that the majority of trading on crypto trading platforms was speculative trading, which is why one of the efforts Vias made to increase XRP liquidity was to try to get XRP listed on such platforms. PX. 21 (Vias Inv. Tr.) at 76:14-80:24; *see also id.* 95:4-16 (explaining the volume and liquidity reasons why Ripple attempted to get U.S.-based crypto platform Gemini to list XRP).

484. Madigan admitted that “Ripple in general is interested in seeing XRP trade on more exchanges, not less,” because it would be “helpful for liquidity” as to XRP. PX 25 (Madigan Tr.) at 234:24-235:12.

485. XRP purchasers were asking Ripple to make XRP more readily available. PX 545 at RPLI_SEC 0041027 (investor asking Ripple to get XRP listed on Coinbase); PX 140 at RPLI_SEC 0622801 (investor complaining to Ripple that current XRP vendors have bad reviews); PX 144 at RPLI_SEC 1048433 (investor looking for exchange other than Kraken which is unreliable).

486. RESERVED.

487. Because XRP’s “liquidity overall is impacted by...the breadth and the number of platforms it’s traded on,” Ripple wanted to have XRP listed on crypto trading platforms. PX 25 (Madigan Tr.) at 43:10-44:13.

488. For Ripple’s XRP markets team, there was a “priority” of getting XRP listed on U.S. exchanges, particularly for the XRP to U.S. Dollar listing pair, in part because, without such listings, it was “going to be pretty challenging to launch a remittance-based use case,” and Ripple needed a “massive amount of liquidity” to get this done. PX 20 (Vias Inv. Tr.) at 49:17-50:6.

489. Because “Coinbase has solid banking relationships” and “money transmission licenses in 50 states,” getting XRP “listed” (i.e., made available for buying and selling) on Coinbase “potentially could be advantageous” to Ripple’s ODL product. PX 16 (Birla Inv. Tr.) at 199:14-23.

490. One reason that Ripple wanted to list XRP on Coinbase is because it would increase speculative trading of XRP. PX 21 (Vias. Inv. Tr.) at 102:4-103:24, 110:20-113:21.

491. Ripple wanted Kraken to list XRP to make it easier for people to buy XRP on exchanges. PX 18 (O’Gorman Tr.) 343:23-345:20.

492. In March 2017, members of the XRP market team reported to Vias that they had a call with Bittrex, a crypto trading platform that then-permitted trades between XRP and bitcoin, to discuss Bittrex permitting trades between XRP and other assets, and noting that the team believed this could “help [Ripple] get to the \$1B speculative volume target” for the next quarter. PX 43 at RPLI_SEC 49126.

493. [REDACTED] a representative of Ripple’s principal market maker, explained that “XRP trading volumes took off” in “staggering” amounts “as XRP started getting listed on cryptocurrency exchanges worldwide.” PX 26 ([REDACTED] Tr.) at 121:6-122:25.

494. Ripple took steps to increase the trading volume and liquidity of XRP vis-à-vis particular fiat currencies, even before Ripple had anyone signed up to use any Ripple products, because a potential client would want to see the existence of such volume and liquidity in advance of signing up to use the software product. PX 23 (Will Tr.) at 227:18-229:11.

495. Vias’s role at Ripple included leading Ripple’s “exchange strategy,” in which Ripple entered into agreements to list XRP on as many reputable crypto exchanges as possible, and provided incentive payments to certain of those exchanges, in order to increase XRP liquidity and trading volume. PX 20 (Vias Dep. Tr.) at 93:11-96:14, 180:7-17.

496. On or about January 20, 2017, Vias sent a representative of Coinbase an email describing a rebate program, volume incentive program, and minimum volume guarantees that Ripple could offer Coinbase if Coinbase listed XRP on its crypto exchange. PX 486.

497. On or about November 29, 2017, Griffin made a post on Twitter which stated: “Ripple: Get Ripple on Coinbase – Sign the Petition!” PX 504.29.

- a. In November 2017, Ripple circulated internally an online petition for Coinbase to list XRP and noted that “[n]ot only US investors, but also overseas investors

are interested in this” because “they want to see a price increase by getting XRP more exposed on major exchanges like Coinbase.” PX 541.

498. Ripple offered crypto exchanges incentives to list XRP. PX 85 (Ripple RFA Responses) No. 584; PX 80 (Ripple Ans.) ¶¶ 161, 163.

499. In or about 2017, Ripple entered into six agreements with crypto exchanges, and also offered two U.S.-based crypto exchanges \$1 million and \$5 million, respectively, to list XRP as part of Ripple’s efforts to increase liquidity between XRP and various fiat currencies. PX 460; PX 21 (Vias Inv. Tr.) at 43:19-44:10, 140:2-25; PX 437; PX 436; PX 81 (Garlinghouse Dep. Tr.) at 298:25-299:21, 305:14-308:20, 327:24-328:16.

(ii) Ripple Used Its XRP Market Reports to Promote Its Activities in Connection with the XRP Market.

500. Ripple published on its website “XRP Market Reports,” the first one with respect to the fourth quarter of 2016 (4Q16 XRP Markets Report). PX 80 (Ripple Ans.) ¶ 103; PX 8 (Ripple RFA Responses) No. 232; PX 85 (Ripple RFA Responses) No. 426.

501. One of Ripple’s purposes for issuing the XRP Markets Reports was to “build a robust successful market” for XRP. PX 21 (Vias Inv. Tr.) at 178:18-180:2.

502. One of Ripple’s purposes for issuing the XRP Markets Reports was to increase liquidity in XRP’s trading. PX 3 (Griffin Inv. Tr.) at 245:1-248:5, PX 81 (Garlinghouse Dep. Tr.) at 385:15-387:17.

503. RESERVED.

504. One of Ripple’s purposes for issuing the XRP Markets Reports was to “correct the misinformation and provide some visibility into what Ripple [] was doing.” PX 3 (Griffin Inv. Tr.) at 244:16-246:1.

505. Ripple’s intended readers of the XRP Markets Reports included people who held XRP for speculative purposes. PX 25 (Madigan Tr.) at 111:17-112:16; 116:6-25, 293:22-294:4.

506. On or about May 1, 2017, Garlinghouse sent an email to XRP investors with the subject “Ripple’s April Investor and Advisor Update”: “Interest in XRP is continuing to grow and we’ve only just begun our focused efforts to build its liquidity. To this end, we recently released our Q1 2017 Markets Report, an important way that we demonstrate our commitment to the XRP ecosystem and continually improving the health of XRP markets globally.” PX 404 at 0010934.

507. Ripple’s 4Q2016 XRP Markets Report stated: “In order to continually improve the health of XRP markets globally, we will share regular updates on the state of the market including quarterly sales, commentary on previous quarter price movement and announcements of new third-party wallets, exchanges, validators and third party liquidity providers.” PX 501.01 at 1, *available at* <https://web.archive.org/web/20170603164903/https://ripple.com/insights/q4-2016-xrp-markets-report/> (archived in June 2017); *see also* PX 85 (Ripple RFA Responses) No. 426 (admitting this report was posted on Ripple’s website).

508. Ripple’s 1Q 2017 XRP Markets Report stated: “We’ve put our ear to the ground and have been listening to important feedback from the XRP community. This includes the need for greater visibility and transparency into Ripple’s vision, strategic use cases for XRP, and plans to increase liquidity and decentralization. To that end, we plan to increase our communications cadence to address this feedback.” PX 501.02 at 4, *available at* <https://web.archive.org/web/20170712084015/https://ripple.com/insights/q1-2017-xrp-markets-report/> (archived in July 2017).

509. Ripple’s 2Q 2017 XRP Markets Report stated: “We are looking into formalizing the lending program we mentioned in the Q4 report ([https://ripple.com/insights/q4-2016-xrp-markets-](https://ripple.com/insights/q4-2016-xrp-markets-report/)

report/), building out our OTC markets by bolstering our broker/dealer networks, and finding more ways to provide greater transparency to markets. Most importantly, we are accelerating the pace of our investment in the XRP Ledger to build on its speed, uptime, and scalability, to ensure XRP is the most trusted enterprise-grade digital asset.” PX 501.03 at 7.

510. Ripple’s 1Q 2018 XRP Markets Report stated: “To continue to provide transparency to the XRP ecosystem globally, we share regular updates on the state of the market, including quarterly sales, relevant XRP-related announcements and commentary on previous quarter market developments.” PX 501.06 at 2, *available at* <https://ripple.com/insights/q1-2018-xrp-markets-report/>.

511. In its XRP Markets Reports, Ripple described the availability of XRP on crypto exchanges, including describing when a new exchange listed XRP or an existing exchange increased XRP’s availability. PX 501.04, PX 501.09, PX 501.10, PX 501.11, PX 501.12, PX 501.13, PX 501.14, PX 501.15 (3Q17 Report; 4Q18 Report; 1Q19 Report; 2Q19 Report, 3Q19 Report, 1Q20 Report; 2Q20 Report).

512. Ripple made a document titled Ripple 2015: A Year in Review, a true and accurate copy of which bears bates numbers SEC-LIT-EPROD-001110625-SEC-LIT-EPROD-001110632, available on its public website on approximately December 28, 2015. PX 85 (Ripple RFA Responses) No. 489.

513. Ripple made a document titled Ripple 2016: A Year in Review, a true and accurate copy of which bears bates numbers bates numbers SEC-LIT-EPROD-001110633-SEC-LIT-EPROD-001110637, available on its public website on approximately December 28, 2016. PX 85 (Ripple RFA Responses) No. 492.

514. Ripple made a document titled The Most Popular Ripple Insights Posts of 2017, a true and accurate copy of which bears bates numbers SEC-LIT-EPROD-001110676-SEC-LIT-EPROD-001110681, available on its public website on approximately December 28, 2017. PX 85 (Ripple RFA Responses) No. 495.

515. Ripple made a document titled XRP Liquidity to Deepen with Listings on Six New Exchanges, a true and accurate copy of which bears bates numbers SEC-LIT-EPROD-001110695-SEC-LIT-EPROD-001110698, available on its public website on approximately May 18, 2017. PX 85 (Ripple RFA Responses) No. 498.

516. At any time from January 1, 2012 to December 22, 2020, Ripple maintained the website <https://ripple.com/xrp/buy-xrp/>. PX 85 (Ripple RFA Responses) No. 607.

517. At any time from January 1, 2012 to December 22, 2020, Ripple published on the website <https://ripple.com/xrp/buy-xrp/> a list of digital asset trading platforms where XRP could be bought, sold, and traded by individuals, including platforms in the United States. PX 85 (Ripple RFA Responses) No. 608.

518. At any time from January 1, 2012 to December 22, 2020, Ripple maintained the website <https://xrpcharts.ripple.com/#/xrp-markets>. PX 85 (Ripple RFA Responses) No. 609.

519. Ripple publicly stated it was focused on growing XRP liquidity. PX 501.02 (2Q17 XRP Markets Reports); *see also* PX 85 (Ripple RFA Responses) No. 429 (admitting this report was posted on Ripple's website).

(iii) Ripple Made Efforts to Correct Misinformation About Ripple and XRP.

520. Ripple made efforts to correct misinformation in the market about Ripple and XRP. PX 2 (Larsen Tr.) at 213:5-214:8; PX 3 (Griffin Inv. Tr.) at 259:8-260:3; PX 17 (Long Tr.) at 49:15-50:3; 58:19-25.

521. Ripple made efforts to combat what it considered to be “FUD” [Fear, Uncertainty, and Doubt] about XRP. PX 17 (Long Dep.) at 81:2-84:24; PX 20 (Vias Dep. Tr.) at 111:7-25; PX 25 (Madigan Tr.) at 258:12-262:11; PX 467; PX 468.

522. Ripple made efforts to combat “misinformation” in the XRP markets. PX 3 (Griffin Inv. Tr.) at 224-25; PX 268 at 1; PX 269 at 1; PX 270 at 1.

523. Ripple wanted there to be positive market sentiment with respect to the XRP market. PX 25 (Madigan Tr.) at 191:20-23.

524. Ripple at times relied on XRP investors—the “XRP Army” as they were colloquially known—to disseminate Ripple’s preferred messaging about XRP. *E.g.*, PX 48 at RPLI_SEC at 1108318 (Ripple employees internally commenting “what a blessing it is to have the “XRP-army” to say the things we legally shouldn[']t”).

525. On or about July 17, 2019 Madigan sent an email which referenced an upcoming XRP Markets Report and which stated: “This report is a big opportunity for us to shift the narrative here – and sentiment move markets.” PX 469 at 0200554-55.

526. In January 2018, Ripple’s guidance regarding insider trading included the statement: “Ripple operates with the imperative that employees must act ethically and transparently with respect to XRP transactions to avoid perceptions that could impair the integrity or reputation of the XRP market. We have internal guidelines that prohibit using material non-public information when trading XRP.” PX 470 at 0276974.

527. Ripple’s Code of Conduct included policies prohibiting insider trading in XRP by Ripple employees. *See, e.g.*, PX 471 at 0888156, 160; PX 2 (Larsen Dep. Tr.) at 148:8-14; PX 472.

(iv) Ripple Made Efforts to Minimize the Market Impact of Its XRP Distributions.

528. On or about March 19, 2013, Griffin sent an email in which he discussed distributing XRP with “a set price (a ‘backstop’) to keep the price from collapsing.” PX 473 at 0017082-83.

529. Griffin understood that a surge in supply of XRP into the market would cause the price of XRP to decrease. PX 3 (Griffin Inv. Tr.) at 77:6-17.

530. Senior leadership at Ripple was concerned about the market impact of giving away XRP for free, including because recipients of the free XRP quickly sold that XRP which lowered XRP’s price and liquidity. PX 10 (Rapoport Tr.) at 150:2-154:9.

531. Rapoport understood that when Ripple sold XRP at a discount to market price, the purchaser could quickly sell it at market price, which in turn had a negative impact on XRP’s liquidity and price. PX 10 (Rapoport Tr.) at 153:25-154:9.

532. On or about January 16, 2014, Griffin sent Larsen a text which stated: “The whole program can really only support about \$1-\$2k per day of XRP without tanking the price of XRP.” PX 483.

533. On or about July 10, 2014, Larsen received an email from a Ripple consultant which stated:

I’ll have this conversation with just the two of you as the follow up to the investigation of the dumping (and recent trashing) of XRP pricing. This is not a Jed phenomena.

Here’s what’s happened. We’ve continued to sell XRP wholesale at a discount to market (a practice you are well aware of that is disfavor) instead of selling at the market. In this case, [REDACTED] is buying at a [REDACTED] discount to market. [REDACTED] turns around and does the same thing we are doing: “wholesaling” the currency to its best users (just as we do). They shave the discount down to [REDACTED] in the case of [REDACTED] selling to their best users. Those traders, in turn, if they sell as soon as they get XRP are “ahead” of the market (like any high frequency trader) and arbitrage the differential while trashing the marketplace.

Basically, supply exceeds demand, whether through Jed's dumping or our own discounting (and subsequent re-discounting). The worst part of all this is that anyone in the know (myself included) who is willing to get paid in XRP knows that holding (as long as dumping and wholesaling are going on) is a losing strategy, and the incentive is to sell as well (to minimize my holding losses -- which have been substantial incidentally since the XRP I receive are break even to payout 1:1 costs I'm incurring in New Zealand dollars and British sterling). All of this creates downward pressure as a matter of pure supply and demand -- independent of any other intrinsic fundamentals.

Without addressing these issues, its really hard for us to reverse the dynamic and avoid the Zimbabwe spiral. Because we've neutered any sort of consumer demand for XRP, the only utility is as a lubricant for traders. Well that's fine if XRP was a closed loop system (like the oil for your car), but if there's a leak, then there's going to be no stoppage to prevent a loss of oil pressure. You can keep pouring oil in, but as long as its pouring out, the system will run dry as soon as you stop pouring it on. Unfortunately for us, the more we pour on, the more we need to pour on as long as there is a material overhang and no known (even if arbitrary) distribution strategy.

As it stands, our controlled (and uncontrolled) monetary policy remains loose. And what I have argued (and will continue to argue) is that there will not be an effective monetary policy unless:

- we stop insider trading
- we stop wholesaling at a discount for XRP that can be spot sold
- we ignore the complimentary effects of retail and wholesale demand

PX 100 at 0516477-48.

534. Larsen responded to the July 10, 2014 email by writing: "OK – it's time to set strong monetary policy." *Id.*

535. On or about November 20, 2015, GSR sent Ripple a document titled "XRP Sales Optimization" which stated:

Given current levels of money entering the RN [Ripple Network], it is very difficult to continue selling XRP at the current pace without affecting the value of XRP.

By switching from a static selling formula to the dynamic one proposed, and adopting the improved execution measures outlined, we believe RL [Ripple Labs] can expect at least a 4% better execution price.

More importantly, we believe this new selling formula will have a less detrimental effect on XRP price, so the net cumulative effect of the daily savings will be much larger.

PX 458 at 11398-99, 11404.

536. On or about May 8, 2014, Griffin wrote Larsen an email which stated: “what can we do? I’m concerned that we lose speculator interest given that xrp will never rise with someone always ready to flood the supply anytime there is good news. the speculators are good for liquidity and provide ‘fumes’ for volume and market making. losing them entirely could cause problems for us. we need a solution.” PX 95.

(v) Ripple’s Strategy for Its Programmatic Sales of XRP Was to Sell What It Could Without Impacting the Market.

537. For Programmatic Sales, Ripple’s strategy was to “sell what we could sell without impacting the market,” specifically, without “impact[ing] the price and . . . volatility of the market.” PX 21 (Vias Inv. Tr.) at 32:1-33:7, 35:4-18.

538. Ripple determined the volume of its Programmatic Sales by looking at overall volume and settling on a percentage of daily volume to sell on exchanges with the goal to “have a very light touch on the market.” PX 21 (Vias Inv. Tr.) at 59:17-60:24.

539. Griffin presented to Ripple’s Board of Directors on occasion, including regarding “what was happening with the XRP markets.” PX 14 (Griffin Dep. Tr.) at 142:5-143:9.

540. Griffin’s role including “working to understand . . . the impact that [Ripple’s] sales in open order books were having in the [XRP] market.” PX 14 (Griffin Dep. Tr.) at 152:2-12.

541. Griffin and other Ripple employees had concerns that Ripple’s Programmatic Sales could negatively impact XRP’s price. PX 14 (Griffin Dep. Tr.) at 223:11-224:22; PX 3 (Griffin Inv. Tr.) at 139:6-10, 141:16-142:18.

542. In or around December 2015, Griffin questioned other Ripple employees as to whether additional sales of XRP would impact XRP's price. PX 492.

543. In or around April 2016, a Ripple employee conveyed to senior Ripple employees, including Garlinghouse and Larsen, an assessment of whether and how Ripple's programmatic sales affected XRP price. PX 463.

544. In or around May 2016, Griffin inquired of other Ripple employees whether a contemplated approach for Ripple's programmatic sales of XRP "add more pressure on the price of XRP." PX 493.

545. In or around June 2016, Ripple employees considered pausing Ripple's programmatic sales in light of observations of a decrease in XRP volume and "some small declines in price." PX 494.

546. Ripple discussed minimizing any negative impact of sales on XRP's price with GSR. PX 26 (█ Tr.) at 58:3-59:4.

547. Ripple set targets for its Programmatic Sales to minimize "footprint" of XRP sales in the market. PX 18 (Griffin Inv. Tr.) at 141:16-142:18; PX 14 (Griffin Dep. Tr.) 153:23-154:25, 162:13-163:1, 217:21-218:13.

548. Ripple's intent with respect to Programmatic Sales was to "algorithmically control the market impact" of its XRP sales, in order to minimize the effect of Ripple's sales on XRP's price. PX 476; PX 10 (Rapoport Tr.) at 273:7-277:22.

549. Ripple's head of institutional markets was concerned that a lot of XRP sell orders would negatively impact liquidity of XRP. PX 25 (Madigan Tr.) at 66:6-11.

550. Ripple designed Programmatic Sales to “minimize the amount of market impact” on XRP’s price, volume, and liquidity by selling a small amount of XRP over a period of time. PX 25 (Madigan Tr.) at 66:24-68:6;

551. Ripple sought to prevent Ripple’s activities from negatively impacting the price of and/or liquidity of XRP. PX 85 (Ripple RFA Responses) Nos. 561-63.

552. Ripple wanted to ensure that its participation in the XRP market was “[a]dditive to liquidity” and did not impact XRP’s price. PX 36 (Garlinghouse Inv. Tr.) at 94:10-95:21.

553. At times, Ripple provided specific instructions to market makers to stop sales or take other steps to protect XRP prices, including buying XRP. PX 14 (Griffin Tr.) at 232:10-239:25; PX 477 at 00004437-4442; PX 478 at 00005366-68; PX 479.

554. At times, Ripple instructed GSR to protect a price floor for XRP or stabilize its price. PX 480 at 00005000; PX 14 (Griffin Tr.) at 238:20-239:9-25; PX 495 at 00004967; PX 496 at 0057022; PX 26 (████ Tr.) at 108:12-110:5, 124:14-125:14; PX 465 at 0205600-02.

555. Ripple’s reasons for protecting the price of XRP included preserving Ripple’s “ability to compete” and attracting developers and other businesses to the Ripple ecosystem. PX 14 (Griffin Tr.) at 234:7-236:21.

556. GSR advised Ripple to reduce sales during “adverse market conditions” to avoid impacting XRP’s prices. PX 26 (████ Tr.) at 75:7-77:10.

557. At times, Ripple instructed GSR to buy XRP in an attempt to stabilize its price. PX 26 (████ Tr.) 90:6-92:1.

558. At times, at GSR’s recommendation, Ripple instructed GSR to purchase XRP shortly after Ripple public announcements. PX 497 at 00004555; PX 26 (████ Tr.) at 95:5-96:2.

559. At times, when XRP's price was on a downward trajectory, GSR recommended to Ripple that it reduce or delay its XRP sales. PX 481 at 00009169; PX 26 (█ Tr.) at 97:17-102:2.

560. Ripple was concerned that its programmatic XRP sales could negatively impact XRP's price. PX 6 (Schwartz Dep. Tr.) at 315:14-316:14; PX 482 at 17/26; PX 463 at 0363344.

561. Larsen and Garlinghouse participated in regular weekly "XRP Markets Meetings" in which adjustments to Ripple's sales strategy were discussed and decisions were made regarding the amount of Ripple's XRP sales for the following week. PX 484; PX 36 (Garlinghouse Inv. Tr.) at 89:23-91:9; PX 421 at 0223873-74; PX 25 (Madigan Tr.) at 34:23-36:16, 88:12-18; PX 21 (Vias Tr.) at 54:4-55:2; PX 20 (Vias Inv. Tr.) at 155:10-160:23; PX 1 (Larsen Ans.) ¶ 424; PX 201 (Garlinghouse Ans.) ¶ 424.

- a. In its quarterly XRP Market Reports, Ripple stated that its Programmatic Sales represented a "small percentage of overall exchange volume," noted that a pause in XRP sales in 2019 was a reflection of the company's role as a "disciplined, responsible stakeholder[]," and highlighted the continued pause in Programmatic Sales in early 2020. PX 501.04 at 2; PX 501.13 at 2; PX 501.14 at 2.

(vi) Ripple Took Other Actions to Increase XRP's Price and Volume.

562. In or around November 2014, Rapoport described Ripple's strategy to direct potential purchasers into the public market to purchase XRP, instead of directly from Ripple, in order to increase XRP's price and volume. PX 462.

563. On or about November 16, 2017, Griffin sent Garlinghouse an email which stated: "I know we are focused on getting the price of XRP up by attracting more interest to it. Im not sure

how all these deals we have in flight will be helpful to that objective in the short term considering the added pressure on the sell side of the order book.” PX 77 at 0395081.

564. In or around August 2018, Ripple’s head of XRP markets expressed concerns about OTC purchaser [REDACTED] “aggressive[] selling [of XRP] on exchanges,” stating that “that kind of selling will continue to drive the price [of XRP] lower, possibly in a very destructive way.” PX 459.

565. Ripple’s XRP markets team was concerned about downward pressure on XRP price caused by XRP sales into the market by [REDACTED] and [REDACTED] PX 22 (Samarasinghe Tr.) at 207:4-210:13, 213:1-214:20.

566. Rapoport expressed concerns that Institutional Sales would soak up demand that would otherwise go into XRP markets, and increase XRP’s price. Rapoport believed that Ripple’s OTC sales had a negative impact on XRP market liquidity and the price of XRP, and agreed with another Ripple employee’s statement that Ripple was “trying to serve two types of [XRP] purchasers: One, bulk purchasers for investment; [and] two, bulk purchasers for resale.” PX 461; PX 10 (Rapoport Tr.) at 242:17-244:19, 156:21-158:2, 160:4-161:6.

567. In or around May 2019, Madigan explored avenues for Ripple to limit OTC purchaser [REDACTED] ability to purchase and resell “very large quantities” of XRP, which concerned her and others at Ripple, including Garlinghouse, because of the sales’ potential to have a “negative impact on liquidity.” PX 25 (Madigan Tr.) at 86:16-87:5, 119:10-21; PX 172.

568. Ripple employees, including Madigan, were concerned that OTC purchaser [REDACTED] immediate resale of large dollar amounts of XRP into the market would have a negative effect on XRP market liquidity, and considered steps to stop or “throttle” (slow down) resales. PX 25 (Madigan Tr.) at 125:5-127:12, 137:3-22.

569. In or around June 2019, Samarasinghe stated that the “XRP Markets team is very concerned” about [REDACTED] XRP purchases because “it has the potential to add up to a billion dollars of XRP supply into the market,” and asked to talk about this concern soon in light of XRP’s “dire” performance in 2019. PX 424.

570. To address the concern that [REDACTED] resales of XRP would hurt the XRP market, Ripple employees discussed the possibility of renegotiating Ripple’s contract with [REDACTED] which imposed daily sales restrictions on [REDACTED] PX 498.

571. In August 2019, a Ripple employee wrote an email to [REDACTED] that conveyed that “Ripple is committed to protecting the XRP market ecosystem” and “[a]s part of the commitment, Ripple recently announced ... the plan to sell less XRP in order to reduce the XRP supply in the market.” PX 466 at 0181129.

572. In or around March 2020, Samarasinghe noted that OTC purchasers who bought XRP from Ripple at a discount were “monetizing” the discount by reselling the XRP into the market, and Ripple employees took steps to compare XRP’s performance with the performance of other digital assets on the days that OTC purchasers sold. PX 487.

- a. Samarasinghe stated that OTC purchaser [REDACTED] “immediately monetize[ed] the discount by selling directly into the market.” *Id.*
- b. Samarasinghe stated that OTC purchaser [REDACTED] “monetize[ed] this discount by selling the full amount they could purchase with sales restrictions daily.” *Id.*

573. Ripple conducted a sales impact analysis which concluded that cumulative past XRP sales had a “longer impact” on the XRP/BTC ratio than expected. PX 444.

574. Larsen and others at Ripple generally preferred to have a lockup term limiting an OTC purchaser’s ability to resell XRP to mitigate the risk that “large holders buying at a discount”

could resell their purchased XRP at market price, which might thwart Ripple's preference that "the price of XRP [] rise rather than fall." PX 10 (Rapoport Tr.) at 151:13-152:4, 252:19-254:5.

575. Rapoport negotiated discount and lockup terms as part of an eventual OTC sale of XRP to Institutional Sales purchaser [REDACTED] PX 10 (Rapoport Tr.) at 241:6-24, 242:9-248:3; PX 441, PX 490.

576. Ripple expressed its intention to stop OTC sales after a funding round closed, to avoid negative impact on XRP's price and liquidity. PX 10 (Rapoport Tr.) at 242:9-244:19; PX 441.

577. Rapoport believed that closing the OTC window and pushing potential XRP purchasers to purchase XRP on the open market—instead of directly from Ripple—would have a "bullish effect on [XRP's] price." PX 441; PX 10 (Rapoport Tr.) at 243:10-244:3.

578. Ripple proposed a resale lockup period to a large Institutional Sales Buyer to "prevent the discounted [XRP] buyer from harming both the liquidity and the price in the market." PX 58 at 1-3 & PX 10 (Rapoport Tr.) at 176:16-177:16.

579. Ripple at times imposed trading volume restrictions in its OTC sales of XRP. PX 475; PX 14 (Griffin Tr.) 179:11-184:23.

580. In or around April 2017, Ripple encouraged potential purchasers of less than \$250,000 worth of XRP to purchase from the open market instead of from Ripple. PX 491.

581. In another instance, Rapoport told a potential purchaser of XRP that "we now only sell at spot (no discount)" PX 441.

582. Some restrictions on XRP sales were limited to percentage daily volume. PX 475; PX 14 (Griffin Tr.) at 182:5-6, 183:7-184:23.

583. Lockup provisions on certain of Ripple's OTC sales of XRP were implemented to restrict resales on the open market. PX 14 (Griffin Tr.) at 180:7-24.

(vii) Ripple Promoted the “Liquid and Robust” Trading Market for XRP and Its Efforts to Maintain the Market.

584. Ripple emphasized the existence of active, liquid trading markets for XRP and detailed the steps it would take to maximize liquidity. PX 267.

585. For example, Ripple stated that a “healthy, orderly XRP market is required to minimize cost and risk for customers, and Ripple plays a responsible role in the liquidity process. As more financial institutions leverage RippleNet’s ODL service, more liquidity is added into the XRP market.” As part of its efforts relating to the XRP market, Ripple also noted that it “has been a buyer in the secondary market and may continue to undertake purchases” of XRP in the future. PX 501.15 (2Q2020 XRP Markets Report).

586. According to Ripple’s primary market maker, Ripple bought XRP to have “fair and orderly” XRP markets and publicly made itself the buyer or seller “of last resort” for XRP. PX 26 (██████████ Dep.) 90:9-25, 131:14-132:8, 167:17-25

587. Ripple touted the “liquid and robust markets” for XRP as late as August 2020. PX 501.15 (2Q20 XRP Markets Report).

588. In its 4Q 2019 XRP Markets Report, under a section titled “Disciplined, Responsible Stakeholders: Continued Pause in XRP Sales,” Ripple stated: “Ripple further reduced XRP sales and paused programmatic sales. Ripple maintained this approach throughout the entirety of Q4.” PX 501.13 at 1/8.

589. In its 1Q 2020 XRP Markets Report, under a section titled “Disciplined, Responsible Stakeholders: Continued Pause in XRP Sales,” Ripple stated that in Q4 2019 “Ripple further reduced XRP sales and paused programmatic sales. Ripple maintained this approach throughout the entirety of Q1 2020.” PX 501.14 (1Q20 XRP Market Report) at 1.

590. In its 3Q 2017 XRP Markets Report, Ripple stated that its subsidiary XRP II, LLC “sold \$32.6 million worth of XRP programmatically as a small percentage of overall exchange volume” and that “For Q3, the sales represented 0.20 percent (20 basis points) of the total \$16.50 billion traded, an 11 basis-point increase from Q2 2017’s 0.09 percent (9 basis points).” PX 501.04 at 1/7)

591. In January 2018 Schwartz made a public post on XRP Chat which stated: “Ripple employs third party market makers to execute these XRP sales to ensure that we can’t control the timing or volume to manipulate the markets or benefit from inside information and also to ensure that Ripple insiders (including me) can’t use intimate knowledge of the sales strategy to their own advantage. These are professional market makers who understand that we don’t want to kill rallies or engineer the price but want to sell with minimal impact.” PX 482 at 17/26.

F. Defendants Seed and Create an XRP Market and then Sell or Distribute XRP Through Various Avenues into that Market.

(i) Ripple’s Giveaways of XRP and Other Steps to Seed the XRP Market.

592. In or around 2013, the XRP market was “very small,” such that, according to Ripple’s executive vice president of business development in 2013, “it was sort of aspirational at best that there would ever be a market around XRP.” PX 14 (Griffin Tr.) 20:5-11, 102:21-103:14.

593. Almost immediately after the XRP Ledger was launched publicly, Ripple “started a series of giveaways [of XRP] so that people could ask for XRP.” PX 7 (Schwartz Inv. Tr.) at 70:19–71:8.

594. The goal of giving away XRP was to increase trading liquidity in the XRP market. PX 10 (Rapoport Tr.) at 126:20-127:5; PX 14 (Griffin Dep. Tr.) at 117:2-118:19.

595. Ripple gave away XRP in order to create and increase liquidity in XRP. PX 14 (Griffin Tr.) 117:2-12.

596. Ripple gave away XRP “find ways in which to build the liquidity and usefulness of XRP.” PX 3 (Griffin Inv. Tr.) 73:11-22.

597. Ripple’s XRP giveaways were intended to “create an ecosystem” that “would be good for [XRP’s] utility, [and] liquidity.” PX 2 (Larsen Tr.) 172:25-173:25.

598. In or around 2013, Ripple’s strategy for distributing XRP was to give it away, and Ripple’s goal with respect to certain XRP giveaways was to increase XRP’s liquidity. PX 10 (Rapoport Tr.) 26:22-24, 54:12-55:2, 124:2-126:5.

599. According to Ripple’s director of markets and trading in 2013, a Ripple XRP giveaway was successful if the gifted XRP “gets traded around between many accounts, presumably getting more users involved in Ripple and also improving network volume metrics.” PX 138.

600. In November 2013, Griffin raised with Larsen the opportunity to give XRP to a charity and then direct prospective XRP buyers to the charity to purchase the donated XRP. PX 139.

601. Once XRP began having an economic value, Ripple giveaways of XRP “became no longer practical” because “[p]eople participated in giveaways just to sell the XRP on the market” or “spam the giveaways and all the funds wound up in a single wallet,” and it therefore “quickly became impossible to make the giveaways work.” PX 7 (Schwartz Inv. Tr.) at 126:13–127:19; 140:7–18; PX 49.

602. Ripple distributed XRP to market makers in order to have the market makers trade XRP against other assets and create price quotes. PX 10 (Rapoport Tr.) 53:13-54:9, 59:3-11, 83:1-86:1, 126:6-12.

603. Ripple “loaned” XRP to market makers and forgave the loans once they “los[t] XRP to the market,” to establish the “building blocks” of an XRP market. PX 344 at RPLI_SEC

0038399; PX 10 (Rapoport Tr. 137:2-140:20, 145:2-146:18; PX 26 (█ Tr. 38:9-43:22, 117:12-119:6) (describing such trading on XRP Ledger and in open markets in 2013 and 2014).

604. On or about April 1, 2018, in a presentation to the Tuck School of Business at Dartmouth University, Ripple's VP of Business Operations stated: "Right now I think most people know that the activity happening with digital assets almost all speculation. I mean there is very little real use case and we would think that this XRPid example is one of the first true use cases for that. It's an infinitesimal amount of the trading volume that happens each day and people say don't you think that the speculative volume that is being created is harmful and at some level, yes, I mean it is very risky. We don't want people to go and spend their life's savings but it's sort of in making a market and currency like this is a necessary first step. You need to prime the pump and get volume started so it starts building initial volume and then certainly we think that the more commercial specific use case volume will grow there and create much more robust markets." PX 503.15, *available at* <https://www.youtube.com/watch?v=CLUUMtLsROk..>

605. Garlinghouse testified: "The payments to customers are meant to incentivize activity on the network, activity -- I think any time you're starting a network, you're trying to have a flywheel start moving and, as I described earlier, the more liquidity going into a market, the tighter the spreads you're going to see exist. Before there is any liquidity, you need to jumpstart that flywheel. And so, as is the case with many other payment network types of players, Ripple has used incentives to get that flywheel started." PX 36 (Garlinghouse Inv. Tr.) at 121:7-122:21.

(ii) Ripple's Sales of XRP

a. Background

606. Ripple ultimately began to sell XRP. PX 10 (Rapoport Tr.) 54:19-56:8.

607. Defendants offered and sold XRP in exchange for fiat money or other currencies. PX 80 (Ripple Ans.) ¶¶ 1, 72, 76, 77, 80, 81; PX 8 (Ripple RFA Responses) No. 29.

608. Ripple directed “investment” inquiries” to its “guide to getting XRP” webpage, which contained links on “how to buy XRP.” PX 50 at RPLI_SEC 0530297.

609. At times from in or around January 2012 to in or around December 2020, Ripple maintained the website <https://ripple.com/xrp/buy-xrp/>. PX 85 (Ripple RFA Responses) No. 607.

610. At times from in or around January 2012 to in or around December 2020, Ripple published on the website, <https://ripple.com/xrp/buy-xrp/>, a list of digital asset trading platforms where XRP could be bought, sold, and traded by individuals, including platforms in the United States. PX 85 (Ripple RFA Responses) No. 608.

611. Ripple’s “intention” in or around August 2016 with respect to its “new guide on buying XRP” was “to make buying XRP more accessible and as easy as possible.” PX 157.

612. Ripple, emphasized that XRP would be (and was) tradable on secondary crypto exchanges. PX 85 (Ripple RFA Responses) Nos. 608; PX 501.04.

613. In or around August 2016, Ripple was engaging in a “concentrated effort into drumming up buyer interest in XRP.” PX 157.

614. As part of Ripple’s efforts to “drum[] up buyer interest in XRP” in or around August 2016, Ripple “t[ook] the initiative to write and host a ‘how to get XRP’ guide on the XRP Portal on Ripple.com.” PX 157.

- a. Ripple formed XRP II, a wholly-owned subsidiary of Ripple, in 2013, and XRP II sold XRP in what it called “over-the-counter” transactions to large institutional investors, hedge funds, and market makers, through its wholly-owned subsidiary XRP II (“Institutional Sales”). PX 8 (Ripple RFA Responses)

Nos. 229, 239-40.; PX 14 (Griffin Dep. Tr.) at 148:11-25; PX 19 (Zagone Tr.) at 68:22-69:10.

615. Ripple's chief compliance officer had compliance responsibilities in connection with XRP II's sales of XRP. PX 18 (O'Gorman Tr.) at 35:4-10.

616. Ripple made over-the-counter XRP sales pursuant to an agreement between Ripple and XRP II. PX 3 (Griffin Inv. Tr.) at 149:4-6.

617. Ripple's over-the-counter XRP sales transactions with which its former head of markets and trading was familiar "tended to be larger transactions," in contrast with the amounts of XRP required to confirm transactions on the XRP Ledger, which were "very small amounts that [we]re designed to be low in value in dollar terms." PX 10 (Rapoport Tr.) at 163:24-165:15, 165:20-166:2.

618. Certain over-the-counter purchasers of XRP functioned as XRP liquidity providers. PX 21 (Vias Inv. Tr.) at 40:2-43:2.

619. XRP II sold XRP to institutional investors, including institutional funds, and market makers. PX 19 (Zagone Tr.) at 68:22-70:19.

620. XRP II sold XRP to accredited investors, and individuals who were not accredited investors were unable to purchase XRP from XRP II. PX 18 (O'Gorman Tr.) at 345:22-346:11.

621. Ripple engaged certain entities, including GSR Markets, [REDACTED], [REDACTED], and [REDACTED] to sell XRP programmatically on Ripple's behalf. PX 8, PX 85 (Ripple RFA Responses) Nos. 51, 56, 571-72.

622. In or around July 2016, listing XRP/fiat pairs on Kraken was a top priority for Ripple. PX 141.

623. In or around July 2016, Ripple's then senior vice president of business development observed that after Ripple completed a deal to list XRP on Kraken, "XRP will be waaaay [sic] easier to purchase." PX 3 (Griffin Inv. Tr.) at 21:9-16; PX 141.

624. In or around March 2017, Ripple's business development personnel were "racing to get Kraken live for easier XRP buying." PX 142; PX 14 (Griffin Tr.) at 275:8-21.

625. Ripple first engaged GSR in late 2013 or early 2014 to provide liquidity on the Ripple Consensus Ledger (now known as the XRP Ledger) and then engaged GSR to make Programmatic Sales of XRP. PX 26 (████ Tr.) at 29:19-32:9; PX 7 (Schwartz Inv. Tr.) at 10:3-19.

626. The term "programmatic sales" references Ripple's use of market makers to use algorithms to sell XRP on digital asset exchanges. PX 22 (Samarasinghe Tr.) 45:14-20.

627. GSR sold a portion of Ripple's XRP on Kraken. PX 26 (████ Tr.) at 158:14-22; PX 143.

628. On or about October 10, 2013, Ripple tweeted: "Going on break at the Ripple Dev Con & we have breaking news: @krakenfx is now trading #XRP <http://bit.ly/19D36AS>." PX 506.008, *available at* <https://twitter.com/Ripple/status/388364210641440768?s=20>.

629. According to Ripple's chief technology officer, when crypto exchanges receive XRP from XRP sellers or transmit XRP to XRP buyers, "those transactions take place on the XRP Ledger." PX 6 (Schwartz Dep. Tr.) at 82:17-83:6.

630. Validation of transactions on the XRP Ledger takes place via nodes, which are physically located all over the world, including in the United States. PX 6 (Schwartz Dep. Tr.) at 61:4-15.

631. Ripple entered into contracts with certain entities to conduct sales of XRP on certain global digital asset exchanges on Ripple's behalf. PX 8 (Ripple RFA Responses) No. 44.

632. Ripple provided XRP to market makers for sale on digital asset trading platforms. PX 85 (Ripple RFA Responses) No. 573.

633. The entities that sold XRP on digital asset exchanges on Ripple's behalf, including market makers like GSR, did so using trading algorithms. PX 8 (Ripple RFA Responses) Nos. 46-47; PX 14 (Griffin Dep. Tr.) at 229:1-12.

634. Ripple discussed sales targets as a percentage of market volume with certain market makers. PX 85 (Ripple RFA Responses) No. 578.

635. In structuring its programmatic sales of XRP, Ripple "wanted to have as little detectable presence in the market as possible." PX 14 (Griffin Dep. Tr.) at 217:21-218:13

636. One of the reasons Ripple's market makers employed trading algorithms to sell Ripple's XRP was to minimize the price impact of those sales. PX 14 (Griffin Dep. Tr.) at 229:1-12.

637. Ripple's sales of XRP consistently constituted a very small portion of XRP trading volume. PX 80 (Ripple Ans.) ¶ 99.

638. Ripple's sales of XRP were generally no more than a fraction of a percent of daily XRP trading volume. PX 80 (Ripple Ans.) ¶ 198.

639. In instructing market makers as to how much of Ripple's XRP to sell, Ripple provided market makers with a target percentage of daily XRP volume. PX 22 (Samarasinghe Tr.) at 61:16-62:16.

640. Ripple employees believed that, if the targeted percentage of traded volume was sufficiently low, Ripple's sales would have relatively low or minimal market impact. PX 22 (Samarasinghe Tr.) at 61:16-62:16.

641. Ripple had an incentive to increase the volume of XRP trading because its programmatic sales of XRP were based on volume. PX 21 (Vias Inv. Tr.) at 51:5-15.

642. In 2013, Ripple had no revenues. PX 7 (Schwartz Inv. Tr.) at 89:20-92:10.

643. In 2014, Ripple had no revenues other than from the sale of XRP. PX 7 (Schwartz Inv. Tr.) at 105:4-17.

644. Ripple earned approximately \$2.1 billion in revenues from its sales and distributions of XRP. PX 45 (Ferrante Decl.) Ex. 2.

645. Ripple's programmatic sales of XRP were Ripple's "life-blood." PX 145 at SEC-
[REDACTED]-E-0048590.

646. During Larsen's tenure as CEO, Ripple's revenues were overwhelmingly driven by XRP sales. PX 2 (Larsen Tr.) at 268:8-14.

b. Ripple's "Programmatic Sales" Targeted Investors and Speculators.

647. Between November 2014 and September 2019, Ripple sold \$757.6 million of XRP in Programmatic Sales using the same market maker the Individual Defendants used (GSR). PX 45 (Ferrante Decl.) Ex. 3.

648. For its Programmatic Sales, Ripple specifically targeted speculators. PX 147; PX 14 (Griffin Dep. Tr.) at 270-76.

649. From the start of GSR's retention to sell XRP for Ripple through in or around 2017, GSR did not segregate accounts for Ripple and its employees. PX 26 ([REDACTED] Tr.) at 141:5-143:4.

650. From the start of GSR's retention to sell XRP for Ripple through in or around 2017, the net execution price received for GSR's XRP sales on behalf of Ripple and Ripple employees was identical, and the XRP sales proceeds were pooled in one account. PX 26 ([REDACTED] Tr.) at 141:5-143:4.

651. In or around 2017, GSR began segregating Ripple and Ripple employee accounts in connection with GSR's XRP sales on behalf of Ripple and Ripple employees. PX 26 ([REDACTED] Tr.) at 141:5-143:4.

652. Ripple's Programmatic Sales were made through market makers, whose business model involved both buying and selling XRP on-ledger and on exchanges through "blind" bid/ask transactions. PX 80 (Ripple Ans.) ¶¶ 93-95; PX 442 at 11.

653. Ripple does not know the identity of any person who purchased XRP sold by market makers on behalf of Ripple through Programmatic Sales. PX 8 (Ripple RFA Responses) No. 111.

654. Ripple was unaware of the identities of purchasers of its XRP sold by market makers on crypto exchanges, and did not impose any restrictions on its market makers as to who could purchase Ripple's XRP. PX 25 (Madigan Tr.) 52:10-15, 212:25-214:3

655. Griffin did not know why certain brokers who approached Ripple's XRP markets team to purchase large blocks of XRP wanted to purchase XRP, and he could not recall any occasion where he or anyone else at Ripple inquired as to why a potential purchaser wanted to buy XRP. PX 14 (Griffin Dep. Tr.) 158:23-162:2.

656. Ripple did not restrict its distributions of XRP to persons who may utilize XRP as a universal asset. PX 8 (Ripple RFA Responses) No. 39.

657. Ripple did not instruct the market makers who sold XRP on its behalf to restrict offers or sales of XRP to persons who would consume XRP. PX 8 (Ripple RFA Responses) No. 48.

658. Garlinghouse could not recall any steps he took to restrict anyone from buying his or Ripple's XRP as an investment. PX 81 (Garlinghouse Dep. Tr.) at 374:6-15, 375:2-12.

659. Garlinghouse does not know whether purchasers of XRP were buying it in connection with payment flows in or around April 2017. PX 81 (Garlinghouse Dep. Tr.) at 377:11-24.

660. Ripple did not make efforts to determine the identities of purchasers and sellers of XRP, and made no efforts to restrict how purchasers of XRP could use the XRP they purchased. PX 15 (Birla Dep. Tr.) at 127:6-128:10.

661. Other than resale restrictions, Ripple did not place restrictions on how OTC purchasers of XRP could use the purchased XRP. PX 20 (Vias Dep. Tr.) at 47:10-17.

662. Ripple did not ask market makers to restrict sales of XRP to certain categories of individuals, including non-U.S. persons or those buying for a purpose other than speculation. PX 22 (Samarasinghe Tr.) at 58:25-59:4

663. Ripple did not direct market makers to impose any resale restrictions on anyone to whom the market makers sold Ripple's XRP. PX 22 (Samarasinghe Tr.) at 59:24-60:19.

664. Ripple did not direct market makers to impose any restriction on who purchased Ripple's XRP, how much they purchased, or the reason for which they purchased. PX 14 (Griffin Dep. Tr.) at 219:9-221:16, 222:17-20.

665. Other than efforts to avoid scams, Larsen could not recall any efforts by Ripple to determine what recipients of free XRP did with their gifted XRP. PX 2 (Larsen Tr.) at 191:9-192:7

666. Ripple did not choose which buyers purchased XRP in its programmatic sales made through market makers and did not instruct its market makers to sell its XRP only to those who would use XRP as money. PX 6 (Schwartz Dep. Tr.) at 81:15-82:16.

667. Ripple did not track information about the purpose for which buyers were purchasing XRP and did not have a policy to inquire for what reason potential buyers were interested in purchasing XRP. PX 10 (Rapoport Tr.) at 142:18-143:21, 297:23-301:20.

668. Ripple did not take any steps to stop people from purchasing XRP for speculative reasons. PX 6 (Schwartz Dep. Tr.) at 294:18-20.

669. Ripple was generally unaware of how XRP purchasers would use their purchased XRP. PX 6 (Schwartz Dep. Tr.) at 38:25-39:4.

670. Ripple understood that some XRP purchasers were speculating on XRP as an investment. PX 25 (Madigan Tr.) at 82:2-14, 212:1-18.

671. Ripple targeted speculative purchasers of XRP. PX 147.

672. In or around the second quarter of 2017, Ripple's "number one XRP priority" was "higher speculative volume." PX 148.

673. It was "widely understood" within Ripple's XRP markets team that speculators were a key part of the XRP market. PX 25 (Madigan Tr.) at 217:1-12.

674. Although Ripple did not know who bought XRP, Ripple's head of XRP markets assumed Programmatic Sales included sales to retail investors, who were trading in XRP primarily for speculation, and Institutional Sales to speculators. PX 20 (Vias Dep. Tr.) at 29:1-2, 42:16-43:16, 45:11-46:2.

675. Ripple desired to have a tight spread in XRP, and the functions of a market maker including providing tighter spreads that "reduce the cost for speculators to enter or exit a position." PX 22 (Samarasinghe Tr.) 107:17-108:18, 168:16-169:23.

676. Ripple engaged GSR to serve as liquidity providers in the XRP market, which included GSR making efforts to reduce bid/ask spreads and provide better prices, which in turn "facilitated the development of the ecosystem" such that "there was more XRP trading interest globally." PX 26 (████ Tr.) 41:21-42:11.

677. In or around November 2013, with respect to XRP distribution, Ripple "prefer[red] to attract speculators who take a long term view and believe XRP demand will overwhelm supply as commercial use of the network increases." PX 101.

678. In a presentation to its Board in or about December 2013, Ripple noted that its “current user” was typically a “[m]ale in his 20s” who “[t]hinks he can make money from investing in XRP, and the price is right.” PX 149 at RPLI_SEC 0646504.

679. In or around March 2013, Griffin understood that there were speculators in XRP. PX 3 (Griffin Inv. Tr.) at 86:2-87:11.

680. In or around November 2013, Griffin understood that because “in the earliest days” when “the ecosystem” is not yet “built out,” the “source of liquidity [in XRP] may largely come from speculators.” PX 3 (Griffin Inv. Tr.) at 122:7-123:24.

681. In or around 2013, Rapoport believed that people speculated on the price of XRP, in part because some people emailed or spoke to Ripple employees and “indicat[ed] they’re speculating on the price of XRP.” PX 10 (Rapoport Tr.) at 81:8-25, 103:3-15.

682. In or around October 2013, an XRP holder told Rapoport and Griffin that he was a “Ripple evangelist” and planned to respond to skeptics “when my ripples make me so rich that I can cover myself in gold plating.” PX 30.

683. In or around November 2013, Ripple “prefer[red] to attract speculators who take a long term view and believe XRP demand will overwhelm supply as commercial use of the network increases.” PX 150.

684. Persons interested in buying XRP reached out to Ripple to inquire as to how to purchase XRP, and in or around November 2014, Ripple used a bot to fill orders requesting to buy XRP. PX 10 (Rapoport Tr.) at 297:23-298:14; PX 151.

685. In or around November 2014, in noting that Ripple used a bot to fill orders requesting to buy XRP, a Ripple employee added “to the moon!” in response to Rapoport’s message that Ripple was “growing volume + rising price.” PX 151.

686. In or around May 2014, Ripple viewed XRP as “an investment asset” and was pitching it to investors as such. PX 152.

687. In or around July 2019, Ripple told a digital asset trading platform that the “primary use case for XRP today is speculative” and that digital asset trading platforms are “the main enabler[s] of this use case.” PX 8 (Ripple RFA Responses) No. 126.

688. In or around July 2016, Ripple was actively recruiting an “XRP manager” who would be “responsible for building the market for XRP,” which the head of XRP markets believed would include “leverag[ing] liquidity to draw in speculators.” PX 153.

689. In or around March 2017, Ripple’s second-quarter plan, which was conveyed to Garlinghouse via email, included the “goal” of “driv[ing] XRP speculative trading volume,” which included among several planned steps, Ripple’s marketing department undertaking “customer research to understand speculator motivations.” PX 142.

690. Ripple targeted U.S.-based exchanges as part of its efforts to increase speculative trading. PX 3 (Griffin Inv. Tr.) at 217:6-9.

691. In or around April 2017, Ripple had a “target goal” to increase “speculative volume” in XRP. PX 3 (Griffin Inv. Tr.) at 218:13-219:19; PX 14 (Griffin Dep. Tr.) at 272:3-276:15.

692. In or around July 2019, the “primary use case for XRP” was speculation and crypto exchanges were “the main enabler of this use case.” PX 154; PX 24 (Beard Tr.) at 190:18-192:21, 205:13-213:1.

693. In or around July 2019, the primary users of XRP were “speculative developers,” including “[e]xchanges, custody providers, trading platforms, traders and holders/whales.” PX 24 (Beard Tr.) at 192:2-193:25.

694. In or around April 2017, Ripple believed that listing XRP on a crypto exchange, Bitfinex, could contribute to Ripple's "speculative volume target." PX 155.

695. In or around April 2020, Ripple understood that in 2017, "when crypto exchanges began to list XRP[,] XRP then became much more accessible to digital asset speculators." PX 156 at RPLI_SEC 0567375.

696. In or around August 2016, Ripple wanted to get XRP listed on a crypto exchange, Kraken, to make it easier for non-accredited investors to buy XRP. PX 18 (O'Gorman Tr.) 344:5-347:21 & PX 157.

697. Ripple's senior manager of XRP markets in 2017 understood that purchasers of XRP on digital asset exchanges were "retail speculators." PX 22 (Samarasinghe Tr.) at 33:19-25, 45:11-46:1.

698. In or around March 2017, Ripple's marketing department undertook research in service of determining how to "attract[] speculators," including interviewing an "[e]xisting 'average Joe' XRP speculator," and "[i]nstitutional" XRP speculator, and an "'average Joe' ...speculator" in bitcoin or other cryptocurrencies who had not yet purchased XRP. PX 159 at RPLI_SEC 0461977-78.

699. In or around March 2017, demand for XRP came from three sources, including "speculators who buy XRP in the market from exchanges or OTC" and market makers in XRP. PX 46 at RPLI_SEC 0156979.

700. In or around June 2016, Ripple's goals included increasing speculative volume in XRP and increasing XRP's price. PX 17 (Long Tr.) at 184:8-185:7; PX 160.

701. In or around March 2017, Ripple's head of marketing conveyed to Garlinghouse Q2 2017 priorities including: "Drive XRP speculation." PX 161.

702. In or around April 2017, Ripple’s head of marketing conveyed to Garlinghouse a list of tasks to undertake to “[g]enerate speculative interest in XRP.” PX 162.

703. In or around March 2017, Ripple undertook market research efforts in connection with the XRP markets team’s view that speculative liquidity driven by retail investors would lead to institutional liquidity. PX 17 (Long Tr.) 201:13-202:20; PX 163.

704. In or around May 2020, Ripple’s markets team suggested Ripple communications that “should lead towards the building of credibility with sophisticated digital asset speculators.” PX 164.

705. In or around October 2020, Ripple contemplated conducting an XRP giveaway on a crypto exchange so that “[m]ore customers would trade/purchase XRP.” PX 165.

706. In or around December 2018, Ripple signed a business development agreement with Revolut, and as part of the agreement, Revolut intended to “source the XRP sold through their mobile app to mom and pop crypto investors.” PX 166.

707. In or around April 2019, Beard stated that the “primary use case for crypto at this point is for speculation.” PX 167.

708. On or about May 3, 2017, using the pseudonym Joel Katz, David Schwartz made a post on BitcoinTalk.org, which discussed XRP’s increase in price and stated:

I have devoted the last five years of my life to Ripple, and now work together with over 100 full-time employees who are devoted to making global payments work better. While I concede I can’t prove that this increase in price isn’t a bubble or isn’t the result of some pump and dump attempt, to me it feels like recognition for the effort the team has put in all these years.

PX 507.20.

709. Ripple took steps to market XRP specifically to speculators. PX 147; PX 14 (Griffin Tr.) 270:6-76:22; PX 142.

710. RESERVED.

711. Ripple put together its cash budget needs for each year to determine how much XRP needed to be sold, and the planned amount of XRP sales was determined by how much cash Ripple needed to execute the activities it wanted to achieve in a given year, as well as XRP market dynamics, including volume of XRP trading); PX 23 (Will Tr.) 58:12-60:22, 210:19-212:4.

712. In or around December 2016, Vias described a plan to move to a “more formulaic programmatic sales strategy” based on “average daily XRP price change” that would require shifting from a percentage of daily volume target to a daily dollar target. PX 274; PX 275.

- a. Vias explained this proposal would “eliminate ambiguity around our XRP sales and purchases, both internally and externally.” PX 274
- b. In response to Vias’s proposal, another Ripple employee explained that Ripple needed to balance Vias’s proposal with Ripple’s cash flow needs, including dollar amounts budgeted for revenues from XRP sales. PX 274.
- c. Vias stated that Ripple would determine every week how much XRP needed to be sold per week, and convey that information to the market makers. PX 20 (Vias Inv. Tr.) 56:1-59:18.

713. For its Institutional Sales, Ripple sold XRP to venture capital firms and other types of “accredited investors” who were “purchasing XRP for speculative purposes.” PX 168.

714. In or around January 2017, Ripple told the New York Department of Financial Services that “XRP has limited commercial use and is mainly held as a speculative investment by companies and individuals that expect it to rise in value as the Ripple network expands.” PX 47 at RPLI_SEC 0532027.

715. Ripple directed GSR to increase XRP sales following an announcement with the purpose of taking advantage of higher sales volume and “tak[ing] more money off the table.” PX 276; PX 277 at 2; PX 26 (██████ Tr.) at 104:2-106:11 (May 2017 email to market maker explaining desire to “take some serious money off the table on the back of” a Ripple announcement, by selling XRP); *id.* at 73:12-24 (explaining that Ripple set the targets for sales based on needed proceeds); PX 278 (at times when the price of XRP increased, Ripple instructed GSR to extract more U.S. Dollars from the market); PX 6 (Schwartz Dep. Tr.) at 218:5-8 (explaining point of Ripple’s sales of XRP was at times just to raise revenue).

c. Ripple’s Institutional or Over-the-Counter Sales Targeted Investors and Speculators.

716. Between late 2013 and the end of 2020, Ripple sold approximately \$728.9 million of XRP in Institutional Sales. PX 45 (Ferrante Decl.) Ex. 3.

717. For its Institutional Sales, Ripple targeted venture capital firms and other types of “accredited investors” who were “purchasing XRP for speculative purposes” and holding it as a “speculative investment” that they “expect[ed] to rise in value as the Ripple network expands.” PX 168 at RPLI_SEC 0001203; PX 47 at 10.

718. “Information Regarding XRP II, LLC’s History and Business,” a document submitted as part of XRP II’s application to register as a money services business with the State of New York, stated that XRP II’s customer base includes “accredited institutional investors who are purchasing XRP for speculative purposes” PX 80 (Ripple Ans.) ¶¶ 19, 105, 166, 235; PX 168.

719. An attorney for XRP II wrote to the New York State Department of Financial Services: “XRP is not intended to be used as a currency.” PX 169.

720. In or around October 2013, Ripple employees met with a group of individuals at [REDACTED] and expressed interest in “striking a deal” that included the sale of XRP. PX 14 (Griffin Dep. Tr.) at 89:18-91:22 & PX 53.

721. OTC purchasers of XRP included wealthy individuals, investment firms, hedge funds, and market makers. PX 14 (Griffin Dep. Tr.) at 163:2-164:14.

722. Griffin surmised that OTC purchasers bought XRP in connection with “different investment strategies ...that a professional investment firm would employ.” PX 14 (Griffin Dep. Tr.) at 164:15-166:22.

723. XRP II sold XRP to companies and accredited institutional investors, at least some of whom were buying XRP to “speculat[e] on the value of XRP going up.” PX 14 (Griffin Dep. Tr.) at 150:8-152:2.

724. Rapoport understood that a buyer of approximately \$1 million worth of XRP in or around September 2014 was an XRP speculator. PX 10 (Rapoport Tr.) at 246:25-248:3.

725. Ripple received inbound requests to purchase XRP, and sold XRP to, funds or “professional pools of capital” who were buying XRP for “speculative” purposes, “to make money.” PX 21 (Vias Inv. Tr.) at 68:22-70:8.

726. In or around mid-2017, Ripple employed an OTC XRP sales strategy to promote speculative activity in XRP. PX 21(Vias Inv. Tr.) at 71:25-76:24.

727. Ripple sold XRP to funds to raise cash and generate additional speculative volume in XRP. PX 21 (Vias Inv. Tr.) at 141:20-142:16,

728. In or around 2018, Ripple sold tens of millions of dollars’ worth of XRP to [REDACTED] a hedge fund who purchased XRP, at a discount to the market price, on behalf of a

██████ investor, who “end[ed] up just buying [XRP] and selling it and monetizing the discount.” PX 21 (Vias Inv. Tr.) at 168:13-172:20; PX 180.

729. Vias believed that Ripple’s OTC sales increased XRP’s liquidity and speculative trading in XRP. PX 20 (Vias Dep. Tr.) at 50:18-24.

730. Ripple sold XRP to sophisticated entities, and certain of such sales were made at discounted prices. PX 80 (Ripple Ans.) ¶ 107.

731. When pitching an XRP sale of ██████████’ worth of XRP to an institutional buyer in or around July 2014, Larsen stated that Ripple was selling “large blocks of XRP,” “view[ed] XRP as pretty undervalued,” and provided a report “on XRP and Ripple that might be helpful from an investment perspective.” PX 58 at ████████_Ripple_0002427.

732. Ripple was interested in “provid[ing] a vehicle for people to get exposure to the price of XRP,” and Rapoport was involved in discussions with a number of firms about a “vehicle which would allow a number of hedge fund investors to get exposure to the price of XRP.” PX 10 (Rapoport Tr.) at 174:7-180:13.

733. In or around April 2016, Ripple proposed to sell XRP in an OTC transaction to a party who had received “a market order” for XRP that it was trying to “fulfill and satisfy.” PX 170; PX 14 (Griffin Dep. Tr.) at 173:14-178:4.

734. Rapoport believed that Ripple’s OTC sales hurt XRP’s market liquidity and price, explaining to one OTC purchaser that “[p]eople buy[ing] from [Ripple] and eventually sell[ing] into the market” “creates a bad price dynamic” and “[i]f Ripple were not selling OTC all this time, the price could probably be way higher.” PX 171; PX 10 (Rapoport Tr.) at 248:21-251:13.

735. In or around May 2019, it was clear to Ripple that a large institutional buyer of XRP, [REDACTED] was selling its XRP “pretty instantaneously” after receipt, “ie routing 90-95% straight selling to exchanges.” PX 172; PX 92; PX 25 (Madigan Tr.) at 52:16-53:25, 119:10-21, 126:13-127:2.

736. Some Institutional Sales buyers were buying XRP as brokers, while others simply resold it as part of their trading strategies. PX 173 (Decl. of Karen Zhou, dated August 22, 2022 (Zhou Decl.)) ¶ 8; PX 543 (Decl. of John Harris, dated September 13, 2022) ¶ 9.

737. Ripple’s OTC sales were “sales of XRP to typically digital asset brokers” who contacted Ripple if and when they had an interest in purchasing a certain quantity of XRP. PX 22 (Samarasinghe Tr.) at 46:2-47:2.

738. Vias discussed with another Ripple employee the possibility of selling XRP to a retail broker who was “interest[ed] in offer XRP to [its] clients ASAP.” PX 174.

739. In October 2018, xRapid, the prior commercial name for the product later known as “On Demand Liquidity” (“ODL”), became publicly available. PX 8, PX 85 (Ripple RFA Responses) Nos. 89, 587.

740. ODL facilitated converting one fiat currency (e.g., U.S. dollars) into another fiat currency (e.g., Mexican pesos) by exchanging the first fiat currency for XRP and then using the XRP to purchase the second fiat currency. PX 8 (Ripple RFA Responses) No. 100.

741. xRapid was moving into commercial production in or around November 2018, and Ripple did not have any xRapid deals signed until 2018. PX 175; PX 23 (Will Tr.) at 225:4-227:4; PX 176.

742. There were 37 xRapid transactions in Ripple’s fiscal year 2018. PX 177.

743. Ripple’s customers who used the ODL product from 2019 through May 2020 were not required to purchase XRP from Ripple. PX 8 (Ripple RFA Responses) No. 94.

744. Before approximately May 2020, Ripple did not sell XRP to ODL customers for their use in ODL transactions. PX 8 (Ripple RFA Responses) No. 95.

745. From January 1, 2012 through December 22, 2020, Ripple did not sell XRP to MGI, the entity doing business as MoneyGram International. PX 8 (Ripple RFA Responses) No. 105.

746. When Ripple's first xRapid customers began using xRapid in 2018, Ripple did not generate revenues from xRapid. PX 15 (Birla Dep. Tr.) at 195:14-197:22

747. Prior to Ripple's introduction of Wallet Send (also known as XRP-O or XRP-Origination) ODL customers bought their XRP through crypto exchanges and not from Ripple. PX 17 (Long Tr.) at 144:9-145:17; PX 81 (Garlinghouse Dep. Tr.) at 336:1-7.

748. Ripple was not selling XRP to ODL customers as of May 2019. PX 25 (Madigan Tr.) at 47:17-21.

749. Ripple's sales of XRP to "customers who are using it for payment flows" began in the summer of 2020. PX 81 (Garlinghouse Dep. Tr.) at 335:13-336:11.

750. In or around September 2020, Ripple made a "de minimis amount of revenue" from xRapid but "th[ought] about the value creation of xRapid as driving the liquidity in the XRP markets." PX 36 (Garlinghouse Inv. Tr.) 110:19-112:22.

751. Between May and December 2020, Ripple sold XRP to money services businesses in connection with ODL, in transactions it called "XRP-O" or "XRP Origination." PX 80 (Ripple Ans.) ¶¶ 373, 378; PX 81 (Garlinghouse Dep. Tr.) at 335:13-336:11.

752. Ripple publicly described sales of XRP to ODL customers as "over-the-counter (OTC)" sales. PX 501.14, *available at* <https://ripple.com/insights/q1-2020-xrp-markets-report/>, PX 501.15, *available at* <https://ripple.com/insights/q2-2020-xrp-markets-report/>, PX 501.16, *available at*

<https://ripple.com/insights/q3-2020-xrp-markets-report/>. (1Q20 Report, 2Q20 Report, 3Q20 Report).

753. Ripple’s CFO stated that “XRPO is just Programmatic/OTC 2.0,” explaining that Ripple was “selling XRP – but now as part of the ‘flow’ of ODL” and using the sales proceeds to “pa[y] bills or ... put it in the bank.” PX 181 at RPLI_SEC 1102142-43.

754. ODL effects cross-border payments by converting fiat currency in the sender jurisdiction into XRP, transferring XRP to the destination jurisdiction, and then converting XRP to fiat currency in the destination jurisdiction. PX 80 (Ripple Ans.) ¶ 360.

755. Ripple does not place any restrictions on what a purchaser of XRP at the destination jurisdiction can do with their XRP. PX 15 (Birla Dep. Tr.) at 219:12-20

756. ODL transactions can take 90 seconds or less. PX 80 (Ripple Ans.) ¶ 360.

757. ODL transactions can take place “in as little as three seconds.” PX 11 (Osler Rep.) ¶ 44.

758. At least two of Ripple’s top four ODL customers received incentives from Ripple. PX 15 (Birla Dep. Tr.) at 237:21-240:14.

759. In contrast to a typical ODL transaction, in which the net XRP introduced into the market is zero, in XRP-O, the amount of XRP that is introduced into the market is the size of the payment, resulting from the sale of the XRP (purchased from Ripple) for fiat currency at the destination exchange. PX 22 (Samarasinghe Tr.) at 238:7-241:1.

760. In the version of ODL “where the XRP comes from Ripple wallets,” this “represents straight selling of XRP and pure supply increase of XRP into the open market.” PX 182 at RPLI_SEC 0502502.

761. In contrast to the version of ODL that was “XRP neutral,” Ripple’s use of XRP-O “start[ed] increasing the supply of XRP.” PX 26 (██████ Tr.) at 177:7-182:15.

762. Before Ripple implemented “XRP-O,” it worried that the resulting resales of XRP could negatively impact the XRP markets. PX 443 at RPLI_SEC 0479912; PX 22 (Samarasinghe Tr.) at 238:7-241:1, 270:3-270:13; PX 182 at RPLI_SEC 0502502; PX 25 (Madigan Tr.) 355:12-362:1; PX 183 at RPLI_SEC 0302048.

763. After XRP-O launched, Ripple remained concerned that XRP-O sales could hurt the XRP market. PX 81 (Garlinghouse Dep. Tr.) at 483:22-484:6.

764. Ripple’s head of XRP markets sent a presentation to Garlinghouse stating that “XRP selling via XRP-O has led to negative pressure on XRP” and that XRP’s underperformance compared to Bitcoin “has accelerated with the launch of XRP-O.” PX 184 at RPLI_SEC 0301745.

765. Because of its concerns about the impact of sales of XRP in connection with XRP-O on the XRP market, Ripple decided to execute purchases of XRP in the market. PX 22 (Samarasinghe Tr.) 268:3-273:8.

766. Larsen and Garlinghouse were concerned that selling XRP to ODL customers could negatively affect XRP markets. PX 185 at RPLI_SEC 0504550, 52; PX 184.

767. Garlinghouse sent a presentation he received from Ripple’s head of XRP markets addressing “XRP-O Supply Concerns” to Larsen. PX 186.

768. Larsen gave “an almost directive” to Garlinghouse that Ripple start buying back XRP. PX 185 at RPLI_SEC 0504551.

769. In or around June 2020, Garlinghouse reached out to the head of XRP markets regarding his concerns about new XRP supply in the market related to XRP-O. PX 184.

770. Ripple instructed GSR to make purchases of XRP on digital asset trading platforms in 2020. PX 85 (Ripple RFA Responses) No. 566.

771. Ripple purchased approximately \$45.55 million in XRP during the third quarter of 2020. PX 80 (Ripple Ans.) ¶ 220.

772. Ripple engaged GSR to purchase XRP on its behalf. PX 26 (██████ Dep.) 177:7-182:15.

773. A GSR employee believed that Ripple wanted to purchase XRP to counteract the price impact of additional supply of XRP being introduced to the market by XRP-O. PX 26 (██████ Dep.) at 177:7-182:15.

774. In or around July 2020, Ripple Labs Singapore Pte. Ltd. entered into a master purchase agreement with GSR Markets Pte. Ltd., which stated the purpose of the agreement was that Ripple Labs Singapore Pte. Ltd. “may seek to purchase XRP from [GSR Markets Pte. Ltd.] to offset amounts of XRP that [Ripple Labs Singapore Pte. Ltd.] is selling to its own customers for their use in cross board payments via [Ripple Labs Singapore Pte. Ltd.]’s On Demand Liquidity product. PX 187.

775. In or around July 2020, Ripple executed a trial period of XRP purchases in which it bought back 100% of the XRP volume that it sold in connection with XRP-O. PX 188.

776. Ripple’s plan to purchase XRP to offset the market impact of sales related to XRP-O entailed “balancing three primary concerns,” including “corp cash needs” and “stability of XRP.” PX 190.

777. Garlinghouse called Ripple’s head of XRP markets and asked her team to consider the option that Ripple purchase XRP to address supply concerns related to XRP-O. PX 25 (Madigan Tr.) 359:23-364:10.

778. Garlinghouse, who had spoken about the topic to Larsen, made the decision to launch Ripple's XRP purchase program in or around July 2020. PX 25 (Madigan Tr.) 359:23-364:10, 370:10-371:2.

779. Ripple disclosed its purchases of XRP that began in or around July 2020 in its XRP markets reports. PX 25 (Madigan Tr.) 364:3-17.

780. Ripple stated in its second quarter 2020 XRP markets report: "As more financial institutions leverage RippleNet's ODL service, more liquidity is added into the XRP market. That said, Ripple has been a buyer in the secondary market and may continue to undertake purchases in the future at market prices." PX 501.15, *available at* <https://ripple.com/insights/q2-2020-xrp-markets-report/> (2Q20 Market Report).

781. Ripple stated in its third quarter 2020 XRP markets report: "Ripple is purchasing – and may continue to purchase – XRP to support healthy markets." PX 501.16, *available at* <https://ripple.com/insights/q3-2020-xrp-markets-report/> (3Q20 Market Report).

782. In or around November 2020, Ripple employees were worried about a customer's request to double the volume of XRP purchased from Ripple for XRP-O. PX 189.

783. A GSR official believed it was possible that Ripple had told him that Ripple's purpose in purchasing XRP was to stabilize XRP's price. PX 26 (████ Tr.) 90:6-8.

784. Ripple's purchases and sales of XRP were part of its efforts to have and maintain "fair and orderly markets" in XRP. PX 26 (████ Tr.) 90:6-25, 131:14-132:8.

785. Ripple publicized its efforts to maintain orderly markets for XRP in its quarterly XRP markets reports. PX 26 (████ Tr.) 167:17-25.

786. Investors took note of Ripple's repurchases as something that could "increas[e] demand and therefore price." PX 440, *available at*

https://www.reddit.com/r/Ripple/comments/i3r0o2/no_one_is_talking_about_the_fact_that_ripple_is/; PX 191.

787. In order for the providers to effect cross border transactions, however, the XRP utilized by ODL customers had to be sold into the market for fiat—immediately, without the providers having any economic exposure to XRP.

788. As ██████ explained in an engineering all hands meeting in 2020 in the context of these cross-border transactions: “So, initially, receivers of XRP right now, the feedback that we’re getting is they don’t -- their risk teams don’t want them to hold XRP on their balance sheets, so they’re going to want to immediately sell XRP on open order books once it lands in their exchange account, or within their wallet.” PX 192 (transcript lines 4-12).

(iii) Ripple’s Other XRP Distributions to the Public Through Intermediaries.

789. From 2013 to 2020, Ripple sold XRP purchasers in bulk quantities (through its wholly-owned subsidiary XRP II) in its “Over the Counter” program using a variety of different contracts with a variety of discounts and/or commission structures (“Institutional Sales”). PX 80 (Ripple Ans.) ¶ 107.

790. Institutional Sales purchasers who bought XRP from Ripple at a price discounted from then-prevailing market prices had an incentive to resell that XRP in the market. PX 279 at RPLI_SEC 1077339 (Samarasinghe discussing that Ripple’s sales of XRP at a ██████ discount to ██████ stating that ██████ “absolutely ... dump[s] [the XRP] into the market”).

791. Ripple also made Institutional Sales to resellers who bought XRP from Ripple at the market price and received ██████ of commissions on these purchases. PX 280 at RPLI_SEC 0259410 (calling control person of one such bulk buyer and whole reseller a “selling agent.”); PX 281 at RPLI_SEC 0957364-RPLI_SEC 0957368 (discussing how resellers dump XRP into the

market and Larsen proposal to “pay wholesalers a [REDACTED] commission on all purchases (whether resold or not) at month end.”); PX 290 at RPLI SEC 0304133 ([REDACTED] July 21, 2014 Side letter for [REDACTED] commissions); PX 291 at RPLI_SEC 0676720-721 ([REDACTED] July 14, 2014 Side Letter for [REDACTED] commissions).

792. Certain Ripple Institutional Sales contracts provided that the Institutional Sales purchaser was obligated to indemnify Ripple for any claim or loss based on the Purchaser’s “use, distribution or resale of the Purchased Ripple Currency.” PX 282 at RPLI_SEC 0188059-RPLI_SEC 0188071 (June 10, 2017 [REDACTED] Purchase Agreement ([REDACTED] to indemnify Ripple); PX 283 at RPLI_SEC 0373425-442 (Oct. 12, 2017 [REDACTED] Financial Purchase Agreement (same)); PX 284 at RPLI_SEC 0208928-942 (Feb. 22, 2018 [REDACTED] Purchase Agreement (same)); PX 285 at RPLI_SEC 0233556-568 (Aug. 6, 2018, [REDACTED] Purchase Agreement (same)).

793. Certain Ripple Institutional Sales contracts provided that the Institutional Sales purchaser was buying XRP “solely to resell or otherwise distribute the Purchased Ripple Currency to Purchasers, and not to use the Purchased Ripple Currency as an End User or for any other purpose.” PX 286 at RPLI_SEC 0329661-665 (Bitstamp Mar. 6, 2013 Invoice signed by Larsen); PX 287 at RPLI_SEC 0891636-640 ([REDACTED] Apr. 25, 2014 Invoice signed by Larsen); PX 288 at RPLI_SEC 0891241-245 ([REDACTED] Jan. 30, 2015 Invoice signed by Larsen).

794. Certain Ripple Institutional Sales contract provided that any resale of purchased XRP must be [REDACTED]. *E.g.*, PX 289 at RPLI_SEC 0891065.

795. [REDACTED] is an entity to which Ripple made Institutional Sales of XRP (through XRP II) between 2014 and 2016, at times at a [REDACTED] discount from then-prevailing market prices, and other times in exchange for a resale commission to [REDACTED] paid in U.S. Dollars

or XRP. PX 292 at RPLI_SEC 0965535 XRP Wholesale Orders (XRP Wholesale Orders 2014 final; XRP Wholesale Orders 2015; XRP Wholesale Orders 2016); PX 293 at RPLI_SEC 0052953 (December 3, 2014 email describing discount and commissions owed to [REDACTED] based on its XRP purchases); PX 294 at RPLI_SEC 0891070 (May 29, 2015, [REDACTED] and Chris Larsen on behalf of Ripple purchase letter providing 20% commissions on [REDACTED] monthly purchases of XRP and requiring [REDACTED] to resell at or below [REDACTED] of then-prevailing market price); PX 295 at RPLI_SEC 0609706-710 (June 2015 purchase order noting [REDACTED] is purchasing XRP “to resell or otherwise distribute”); PX 292 at RPLI_SEC 0965535 XRP Wholesale Orders (XRP Wholesale Orders 2014 final; XRP Wholesale Orders 2015; XRP Wholesale Orders 2016).

796. Ripple received at least \$3.5 million from [REDACTED] and paid [REDACTED] at least \$570,000. PX 296 at lines 21, 23, 25-31, 33-40, 43, 45, 47, 52, 74-79, 80, 82-83, 86-90, 93-97, 99-102, 104, 107-116, 118-119, 121-123, 125-128, 130-132, 134, 136-37, 140, 142-145, 148-155, 157, 159-160, 162, 164-166, 168, 170-172, 174, 177-181, 183-185, 187, 191-194, 199-200, 206).

797. [REDACTED] is an entity to which Ripple made Institutional Sales of XRP (through XRP II) between 2013-2015, at times at a discount from then-prevailing market prices between [REDACTED] and other times in exchange for a resale commission to [REDACTED] paid in U.S. Dollars or XRP, through at least 85 sales invoices. PX 292 at RPLI_SEC 0965535 XRP Wholesale Orders (XRP Wholesale Orders 2014 final; XRP Wholesale Orders 2015); PX 292 at RPLI_SEC 0965535 XRP Wholesale Orders (XRP Wholesale Orders 2014 final; XRP Wholesale Orders 2015); PX 298 at RPLI_SEC 0328194-195 (October 29, 2013 email documenting payment of 10% commission in exchange for [REDACTED] XRP purchases); PX 299 at RPLI_SEC 0890994 (July 21, 2014, [REDACTED] to receive monthly a commission of [REDACTED] on total monthly purchases).

798. In April through June 2015, Ripple received at least \$760,000 from [REDACTED] K.K. and paid [REDACTED] it at least \$100,000. PX 296 at lines 56, 59-60, 62-64, 66-67, 69-73, 81, 84-85.

799. Larsen understood that [REDACTED] was buying XRP from Ripple to resell it, emailing the company's CEO on July 26, 2013: "As I understand [REDACTED] retail price from their site, looks like they sell at a [REDACTED] premium or so. We would entertain a [REDACTED] discount from the market price—that would give you a [REDACTED] mark up total." PX 297 at RPLI_SEC 0328631-636.

800. Ripple at times used "XRP Purchase Agreements" to make Institutional Sales of XRP (through XRP II), specifying that the XRP could not be transferred or resold within a set period of time, or limiting resales to amounts relating to the XRP trading volume. PX 300 at RPLI_SEC 0000626-631 (limiting resales by [REDACTED] for [REDACTED] in exchange for [REDACTED] discount and then for [REDACTED] limiting resales to [REDACTED] of average daily trading volume); PX 301 at RPLI_SEC 0609541-556 ([REDACTED] agreement with six month lockup and then resales limited to [REDACTED] of average daily trading volume).

801. Certain "XRP Purchase Agreements" specified that the resale restrictions would be determined when the Purchaser submitted the required form called "XRP II Summary of XRP Purchase." Such forms as submitted specifically indicated that the XRP being purchased was not subject to any resale lockup or restriction. *Compare, e.g.*, PX 302 at RPLI_SEC 0233556-568 ([REDACTED] Master Purchase Agreement stating that lockup and resale restriction to be determined in Summary of XRP Purchase form) *with* PX 303 at SEC-[REDACTED]-E-0000673 ([REDACTED] Summary of XRP Purchase form stating there is no lockup or resale restriction on purchased XRP); PX 304 at RPLI_SEC 0208928-942 ([REDACTED] Master Purchase Agreement) *with* PX 305 at RPLI_SEC 0172196-197 ([REDACTED] Summary of XRP Purchase); PX 306 at RPLI_SEC

0000608 (June 20, 2017 [REDACTED] Summary of XRP Purchase Order); PX 307 at RPLI_SEC 0000608 (Feb.12, 2018 [REDACTED] Summary of XRP Purchase Order).

802. A Ripple employee explained in an email to one of the Institutional Sales buyers that the omission of resale restrictions was deliberate, and that though the XRP Purchase Agreements “reference[] lockups and trading restrictions, we will specify that there are none on the actual order confirmations. We just like to have the terms defined in the agreement.” PX 308 at RPLI_SEC 0108630.

803. By selling XRP without lockups or resale restrictions, Ripple understood and facilitated the purchaser’s ability to further distribute XRP. PX 309 at RPLI_SEC 0926193- RPLI_SEC 0926194 (Vias telling Garlinghouse that “as business matter it is BD’s position not to include our usual transfer restrictions in this agreement with [REDACTED] and, instead, to rely on [REDACTED] own lock-up policies. Note that [REDACTED] is free revise/remove its internal policies any time, and there may be market conditions where a massive sale of XRP may be in [REDACTED] best interests.”); PX 310 at RPLI_SEC 0389883-895 (September 18, 2017 final agreement and side letter between Ripple and [REDACTED] providing [REDACTED] and no resale restrictions).

804. On or about August and September 2018, Ripple sold more than \$83 million of XRP to a U.S. based purchaser, [REDACTED], in 18 transactions at a [REDACTED] discount.

805. On August 2, 2018, Vias informed Garlinghouse that “[REDACTED] would like to purchase \$30M worth of XRP over the next 30 days at a [REDACTED] discount.” PX 311 at RPLI_SEC 0131475.

806. [REDACTED] Institutional Sales purchases of XRP in fact was on behalf of another entity, [REDACTED], with [REDACTED] retaining [REDACTED] of the discount as a commission. *See* PX 312 at SEC-ROSEMOOR-E-0000355; PX 313 at SEC-[REDACTED]-E-0000576-597 (chat between

██████████ and ██████████ in which ██████████ promises that upon receipt of XRP from Ripple, ██████████ would “send immediately to your address.”).

807. On August, 6, 2018, ██████████ signed a subscription agreement for ██████████ for the issuance of Class A limited partnership interest in ██████████ and ██████████ signed a master purchase agreement with Ripple. PX 302 at RPLI_SEC 0233556; PX 314 at SEC-██████████-E-0000111.

808. Between August and September 2018, ██████████ sent funds to ██████████ who used those funds to purchase XRP from Ripple, and sent the purchased XRP to ██████████, keeping ██████████ of the purchased XRP as arranged with ██████████. See PX 313 at SEC-██████████-E-0000576-597; PX 315 at SEC-██████████-E-0000635-669 (same)

809. None of the 18 forms executed by Ripple and ██████████ contained any lockups or resale restrictions with respect to XRP. PX 316 (composite exhibit).

810. Garlinghouse and Larsen knew about and reacted favorably to ██████████ purchases. PX 317 at RPLI_SEC 0221269 (Ron Will informed Garlinghouse that ██████████ was wiring \$9.2 million to execute his purchase, and Garlinghouse Responding “wow. Nice.”); PX 318 at RPLI_SEC 0221297 (Garlinghouse informing Larsen that ██████████ had purchased \$10m of XRP over the past two days, and Larsen responding “That’s good.”).

811. On August 20, 2018, Vias informed Garlinghouse that ██████████ wanted to purchase another \$30 million of XRP at the same ██████████ discount. Garlinghouse discussed with Ripple CFO Ron Will what signal these sales would send to the market in the upcoming Q3 XRP Markets Report, and Will responded: “We can spin this positively in talking about institutional investors showing increased interest in XRP in Q3,” and that “Given the volatility in the space, I think that

this validation will play well and gives us the ability to lower the programmatic % if we chose at quarter-end (which I would recommend).” PX 319 at RPLI_SEC 0200421.

812. On August 29, 2018, Vias informed Garlinghouse that [REDACTED] wanted to purchase another \$30 million of XRP which “would put total [REDACTED] purchases at \$83.7M and total XRP sales at \$120M for Q4,” and recommended immediately halting programmatic trading until Q4 which for Q3 “would leave our programmatic sales percentage at 12.4bps, approximately the same as the previous quarter,” and Garlinghouse forwarded the email to Larsen who responded “That’s great!” PX 320 at RPLI_SEC 0221255.

813. By mid-September 2018, Ripple observed an uptick in XRP trading volume surrounding [REDACTED] purchases. PX 321 at RPLI_SEC 0261049 (Samarasinghe tells Will that “Large spikes of [REDACTED] volume share correspond to [REDACTED] purchases.”); PX 322 at RPLI_SEC 0053327 (Samarasinghe tells Garlinghouse that “Large spikes of volume share correspond to [REDACTED] purchases.”); PX 323 at RPLI_SEC 492574 (Samarasinghe explaining that “[REDACTED] entered into an arrangement with Ripple to purchase XRP at a discount schedule. The discount increased the more XRP they purchased. It became apparent that [REDACTED] was purchasing the XRP and then immediately monetizing the discount by selling directly into the market. These purchases were in the order of \$5M, \$ 10M, or \$15M worth of XRP sold into the market on specific days. We can compare XRP’s performance on these specific days versus the performance of other digital assets.”).

814. On September 18, 2017 Ripple agreed to sell XRP to [REDACTED], later called [REDACTED], at a [REDACTED] discount in 2017 and for a [REDACTED] discount in 2018. PX 324 at RPLI_SEC 0000861-RPLI_SEC 0000873; PX 80 (Ripple Ans.) ¶ 114; PX 328 at RPLI_SEC 0237627- 630.

815. That month [REDACTED] executed three Summary of XRP Purchase forms to purchase \$2,100,000 of XRP. PX 296 at lines 278, 281; PX 325 at RPLI_SEC 0577050; PX 326 at RPLI_SEC 0000858; PX 327 at RPLI_SEC 0000860.

816. Between October 2018 and February 2018, [REDACTED] purchased \$3,995,000 of XRP without lockup or resale restrictions at discounts between [REDACTED]. PX 292 at RPLI_SEC 0965535 (Wholesale XRP Orders 2017 and Wholesale XRP Orders 2018); PX 296 at lines 298, 302, 309, 311, 315, 318, 321, 327, 334-335.

817. [REDACTED] is an entity to which Ripple made Institutional Sales of XRP via a “Master XRP Commitment to Sell Agreement” starting in May 2020, in which Ripple agreed to deposit XRP in a designated [REDACTED] wallet to be used “for the sole purpose of completing a payment transaction over On-Demand Liquidity,” with the purchased XRP was then converted into a USD purchase price based on [REDACTED] acceptance of a mutually agreed upon market rate quote. PX 329 at [REDACTED] SEC00013519-533.

818. On May 26, [REDACTED] made its first purchase of [REDACTED] worth of XRP under the agreement. PX 330 at [REDACTED] SEC00017941 ([REDACTED] Summary of XRP Commitment); PX 331 at RPLI_SEC 0583587 (Ripple receipt for [REDACTED] purchase).

819. In the coming weeks, Ripple sold additional XRP to [REDACTED] on a weekly basis. PX 332 at RPLI_SEC 0776134 (Ripple email to [REDACTED] documenting XRP drawdowns during week of August 16, 2020); PX 333 (tracking spreadsheet); PX 334 at (Ripple invoices [REDACTED] for [REDACTED] for week of August 16, 2020); PX 296 at line 736.

820. [REDACTED] is an entity to which Ripple made Institutional Sales of XRP starting around May 2020. PX 336 at RPLI SEC 0300993 (May 1, 2020 [REDACTED] Master XRP Commitment to Sell Agreement); PX 337 at SEC-UKFCA-E-0001412 ([REDACTED] Summary of XRP Commitment); 338 at

RPLI_SEC 0585417 (Ripple receipt for [REDACTED] purchase); PX 339 at RPLI_SEC 0584845 (Ripple invoices Azimo [REDACTED] for the week of May 31, 2020); PX 296 at line 693 ([REDACTED] June 11, 2020 deposit of [REDACTED] in Ripple's [REDACTED] account)

821. Between June 30, 2020 and January 31, 2021, Ripple sold more than [REDACTED] of XRP through [REDACTED] PX 296 at lines 688-689, 691, 693, 696, 698, 701, 709, 712, 714, 717, 724, 726, 728, 732, 737, 740, 742, 744, 751, 756-757, 762, 764, 771, 773, 776, 778, 780, 785, 789, 794, 798, 808, 811, 814, 818, and more than [REDACTED] of XRP through [REDACTED] *id.* at lines 694, 697, 700, 705, 710, 713, 716, 722, 725, 727, 730, 736, 738, 741, 743, 747, 755, 758-759, 763, 765, 772, 775, 777, 781-782, 786, 791, 799, 802-803, 809, 812, 815-817, 819.

822. Like the other XRP sold in Institutional Sales, the XRP Ripple sold to [REDACTED] and [REDACTED] was meant to and did immediately end up in the hands of XRP investors in the secondary market, with Ripple aiding [REDACTED] and [REDACTED] in reselling the XRP.

823. In an internal meeting in 2020, a Director of Ripple Product explained, referring to these sales of XRP through the "On-Demand Liquidity" or "ODL" product, referred to as "XRP-O" or "XRP Origination": So, right now, we're doing a lot of work of XRP origination and XRP termination, which you'll hear more about on the send and receive side, but ultimately what's happening is we'll be able to do -- facilitate an ODL transaction without an exchange within that flow. However, we'll then have receivers with XRP on their balance sheet, and they'll need -- they are asking for services to enable them to intelligently sell that XRP on open markets. So, initially, receivers of XRP right now, the feedback that we're getting is they don't -- their risk teams don't want them to hold XRP on their balance sheets, so they're going to want to immediately sell XRP on open order books once it lands in their exchange account, or within their wallet. PX 192; *see also* PX 340 at RPLI_SEC 0682567- RPLI_SEC 0682581 (Ripple's Receivers Product Story H2 2020

presented at Engineering All-Hands Meeting on June 16, 2020, stating that “[t]he goal of XRP Liquidation feature is to provide the receivers with fast, flexible, and cost-efficient execution service to sell (liquidate) XRP via [REDACTED] connected exchanges and market makers. [REDACTED] will optimize liquidation experience for the receivers by ensuring the best execution price available on all liquidity venues, and provide options for receivers to minimize exposure to XRP volatility.”)

824. Another Product Manager at Ripple explained at another internal meeting in 2020: “We launched XRPO this quarter, and as part of XRPO volume, we ended up doing just over 30 million in volume. That’s crucial because that’s 30 million in volume, but that also represents 30 million in XRP sales, which is revenue to the firm, and it is what powers the firm’s ability to do investments and, you know, pay people and stuff. PX 341 at p. 4, lines 12-18.

825. Brad Garlinghouse knew about these weekly XRP sales to [REDACTED] and [REDACTED] PX 342 at RPLI_SEC 0582537 (Garlinghouse thanking [REDACTED] for the update, stating “very valuable for me in keeping track.”); PX 343 at RPLI_SEC 0521044 (Garlinghouse thanking [REDACTED] stating “Best weekly ODL update I’ve read!”).

826. Ripple knew that the “XRP-O” Institutional Sales, like the other Institutional Sales, were sales into public markets through conduits. As Ripple employees explained internally: “Now, on the supply side, I think it’s -- it is important to know that, you know, with things like XRPO, there is supply being added to the market in terms of Ripple selling XRP in the market. PX 192 at p. 36, lines 21-24; PX 341 at p. 25, lines 19-24 and p. 26, lines 1-4 (“[O]ne of the things that we have done with [REDACTED] that is something that we’re doing because we need to kind of manage as we launch XRPO and sell XRP to the market, we also want to manage the supply a little more.”).

(iv) Ripple's Other XRP Distributions

827. Ripple made certain payments in connection with its operations in XRP instead of fiat currency. PX 80 (Ripple Ans.) ¶ 125.

828. In connection with ODL, Ripple made certain payments in XRP instead of fiat currency, including to ODL customers and market makers. PX 80 (Ripple Ans.) ¶ 131.

829. At times, Ripple distributed XRP to individuals and/or entities that provided services to Ripple. PX 8 (Ripple RFA Responses) No. 33.

830. Through the end of 2020, Ripple recognized revenue of \$609 million from these types of distributions. PX 45 (Ferrante Decl.) Ex. 2.

831. Ripple distributed at least 776 million units of XRP as part of the so-called “xPring” initiative launched in 2018 to fund third parties that would support development of new applications of XRP and the XRP ledger. PX 80 (Ripple Ans.) ¶ 147.

832. One of the purposes of xPring was to incentivize the development of uses for XRP. PX 90; PX6 (Schwartz Dep. Tr.) 392:9-12.

833. xPring goals included “trying to build an ecosystem of companies that were using XRP.” PX 24 (Beard Tr.) 76:2—77:5

834. Xpring was focused on supporting companies that were looking at new use cases for XRP. PX 25 (Madigan Tr.) 59:13-60:19; PX 501.10, *available at* <https://ripple.com/insights/q1-2019-xrp-markets-report/> (1Q19 XRP Markets Report).

835. Ripple touted the amount of money (in U.S. Dollars, not XRP) that it had invested to boost XRP. PX 193; PX 194.

836. Ripple understood that these “partner” companies would sell the XRP into public markets in order to monetize it “immediately.” PX 195.

837. Ripple required, as a condition of funding, that a company report to Ripple on its sales of XRP. PX 196.

838. Ripple's XRP distributions in connection with xPring were "generally subject to sales restrictions." PX 501.11, *available at* <https://ripple.com/insights/q2-2019-xrp-markets-report/> (2Q19 Report).

839. Ripple also placed restrictions in an agreement with a xPring partner that restricted how much XRP the partner and its developers could sell, based upon XRP liquidity in the market over a given period of time. PX 24 (Beard Tr.) 176:25-180:2.

840. Ripple also took steps to manage the pace at which xPring partners sold XRP through restrictions in their agreements because of concerns about "downward pressure on the price" caused by "developers ...immediately selling the XRP." PX 195.

841. Ripple's head of XRP markets was interested in how XRP was being used by xPring partners, including whether and how much XRP was being sold by xPring partners, because of the potential to disrupt XRP market liquidity. PX 25 (Madigan Tr.) 61:7-63:19, 72:7-16.

842. Ripple's head of XRP markets took specific steps when she started working at Ripple in or around June 2019 to understand all of the existing XRP sales orders and that she wanted to "lower[] [Ripple's] sales [numbers] ASAP." PX 25 (Madigan Tr.) 89:12-93:5; PX 198.

843. An internal Ripple presentation prepared in or around April 2020 about "XRP Supply" showed Ripple included sales to and other distributions in connection with xSpring within "all Ripple XRP distributions impacting circulating supply." PX 199 at RPLI_SEC 0590775.

(v) Ripple's Use of XRP as Executive Compensation

844. Ripple granted Garlinghouse [REDACTED] units of XRP as a part of his compensation agreement in or around December 2016. PX 86 (Garlinghouse RFA Responses) No. 66.

845. Ripple granted Garlinghouse [REDACTED] units of XRP as part of his compensation agreement in or around May 2019. PX 86 (Garlinghouse RFA Responses) No. 67.

846. Garlinghouse sold some of the XRP he received from Ripple. PX 86 (Garlinghouse RFA Responses) No. 174.

847. Garlinghouse's employment offer letter of April 1, 2015 stated that his compensation included [REDACTED], structured as a four-year loan. PX 73.

848. Ripple granted Garlinghouse XRP in or around May 29, 2019. PX 74.

849. Ripple granted Garlinghouse XRP in or around December 2016. PX 75.

850. Schwartz made over [REDACTED] by selling XRP and held about [REDACTED] units of XRP in or around May 2021. PX 6 (Schwartz Dep. Tr.) 94:19-95:25.

851. Griffin received XRP as a bonus grant when he joined the company, which he later sold for over [REDACTED], [REDACTED]. PX 3 (Griffin Inv. Tr.) 184:12-185:3, 191:14-192:8; PX 14 (Griffin Dep. Tr.) 21:21-23:13.

852. Rapoport received [REDACTED] XRP units and sold them for about [REDACTED]. PX 10 (Rapoport Tr.) 40:8-42:23.

853. Long was paid bonuses in XRP and sold some of the XRP she was paid. PX 17 (Long Tr.) 103:4-104:10.

854. Birla was entitled by agreement with Ripple to receive [REDACTED] units of XRP in bonuses over [REDACTED], and held [REDACTED] units of XRP in or around June 2021. PX 15 (Birla Dep. Tr.) 54:23-55:12; PX 16 (Birla Inv. Tr.) 48:10-50:19.

855. [REDACTED], received a bonus in XRP after she agreed to take on the [REDACTED] [REDACTED] role at Ripple. PX 18 ([REDACTED] Tr.) 29:13-30:16.

856. Vias, Ripple's head of XRP markets from November 2016 to April 2020, received XRP for his employment and during company-wide bonus at the end of 2018. PX 21 (Vias Inv. Tr.) 360:12-361:18.

857. Will, Ripple's CFO through 2020, received an XRP bonus of [REDACTED] units, which he sold for less than [REDACTED]. PX 23 (Will Dep. Tr.) 47:18-49:24, 51:23-53:10.

858. Beard, who worked for Ripple through October 2020 received approximately [REDACTED] units of XRP as a bonus, which he later sold. PX 24 (Beard Tr.) 37:25-39:15; PX 200.

859. Madigan, Ripple's head of institutional markets starting in May 2019, received approximately [REDACTED] worth of XRP, which she sold. PX 25 (Madigan Tr.) 24:17-25:9..

(vi) Larsen and Garlinghouse Offered and Sold XRP While Controlling Ripple.

860. Larsen was Ripple's CEO from its inception until the end of 2016. PX 1 (Larsen Ans.) ¶ 6; PX 2 (Larsen Tr.) 49:16-18.

861. Since 2013, he has also been the Chairman (and, as of January 1, 2017, Executive Chairman) of Ripple's Board. PX 149; PX 1 Larsen Ans. ¶ 6; PX 8 (Ripple RFA Responses) No. 225.

862. Larsen has been a Ripple shareholder since its founding, and he owns just over [REDACTED] of voting. PX 1 (Larsen Ans.) ¶¶ 6, 172; PX 2 (Larsen Tr.) at 58:16-60:8.

863. As CEO, Larsen was involved in and had authority regarding Ripple's business decisions. All employees reported to him, and he provided reports to the Board of Directors. Larsen has the ability to appoint directors to the Board; PX 1 (Larsen Ans.) ¶¶ 6, 172; PX 2 (Larsen Tr.) at 50:16-51:4, 52:1-53:7; PX 8 (Ripple RFA Responses) No. 225.

864. Garlinghouse was Ripple's COO from around April 2015 through December 2016, and has been Ripple's CEO from since on or around January 1, 2017 to the present; Garlinghouse

had the power to make decisions on behalf of Ripple, the authority to manage Ripple's activities, and the power to direct Ripple policies. PX 80 (Ripple Ans.) ¶¶ 6, 17.

865. CEO, Garlinghouse was involved in and had authority regarding Ripple's business decisions. Garlinghouse had the power to make decisions on behalf of Ripple, the authority to manage Ripple's activities, and the power to direct Ripple policies. PX 81 (Garlinghouse Dep. Tr.) at 26:3-15; PX 201 (Garlinghouse Ans.) ¶¶ 6, 426.

866. Garlinghouse has had the ability to direct Ripple's activities since 2017. PX 80 (Ripple Ans.) ¶¶ 6, 17; PX 94 (Ripple RFA Responses) Nos. 720-21; PX 201 (Garlinghouse Ans.) ¶¶ 6, 424-26.

867. As CEO, Garlinghouse responsibilities included all aspects of product, company strategy, execution of company strategy, Ripple's growth and investment in Ripple, including efforts to raise capital. Garlinghouse regularly updated Ripple's Board of Directors and Ripple shareholders about Ripple. PX 36 (Garlinghouse Inv. Tr.) 36:10-39:1.

868. Having received 9 billion units of XRP upon Ripple's founding, Larsen began his own sales in 2013 and continued selling XRP into public markets through 2020, making approximately \$450 million from his sales. PX 2 (Larsen Tr.) 67:14-68:12, , 71:4-12, 77:16-78:20, 79:13-79:24; PX 202 (Amended Expert Report of [REDACTED] Rep. ("[REDACTED] Rep.)) ¶¶ 37-38, Fig. 7, Tbl. 2; PX 514.

869. Larsen sold XRP after learning of the SEC's investigation. PX 2 (Larsen Tr.) at 19:6-21:22, 79:8-17.

870. Garlinghouse sold approximately \$150 million in XRP from 2017 through 2020. PX 202 ([REDACTED] Rep.) ¶¶ 39-40, Fig. 8, Tbl. 3; PX 81 (Garlinghouse Dep. Tr.) 330:15-333:5; PX 203 [GARL00000001-1].

871. Some of Garlinghouse's sales of XRP occurred on the crypto exchange known as Kraken. PX 86 (Garlinghouse RFA Responses) No. 193.

872. Garlinghouse continued to sell XRP through the end of 2020—after he was personally named in a lawsuit accusing him and Ripple of unregistered sales of XRP in May 2018 and after SEC staff informed Ripple it was likely to conclude Ripple's offers and sales of XRP were securities transactions. PX 86 (Garlinghouse RFA) 221; PX 81 (Garlinghouse Dep. Tr.) 115:6-118:25, 330:15-333:5.

873. Garlinghouse's sales of XRP have been his largest source of income. PX 81 (Garlinghouse Dep. Tr.) 333:6-16.

874. Garlinghouse admits that none of his sales of XRP were covered by a registration statement. PX 201 (Garlinghouse Ans.) ¶ 60.

875. Larsen admits that none of his sales of XRP were covered by a registration statement PX 1 (Larsen Ans.) ¶ 60.

876. Garlinghouse admitted he and Larsen both had the power to have Ripple file a registration statement for offers and sales of XRP. PX 81 (Garlinghouse Dep. Tr.) at 26:3-28:2.

G. XRP Purchasers Reasonably Viewed XRP as an Investment in Ripple's Entrepreneurial Efforts.

877. On or about November 26, 2014, a representative from [REDACTED] (which had invested in Ripple) emailed Larsen and another Ripple employee stating “[w]hen we bought XRP at .0037, we thought this Jed thing would pass and the TEAM is what we bet on...we believe in the TEAM.” PX 360.

878. On or about September 12, 2016, Griffin emailed Ripple employees including Larsen and Garlinghouse “feedback” from an investor [REDACTED] regarding Ripple's XRP “distribution.” Referencing Ripple's “Escrow,” the email stated that “Ripple is a central bank of XRP.” PX 445.

879. Similarly, Ripple received inquiries about investing in XRP, with many explicitly viewing it as an investment in Ripple. For example, on or about October 14, 2016, an individual emailed Ripple to note that he was “[l]ooking to buy XRP shares, very intelligent company and can go very far. I am looking to invest some money in you guys.” PX 197.

880. An individual “from New England” contacted Ripple on or about May 7, 2017, to note that he was a “ripple investor with 19500 shares to date. I am very excited to invest further in Ripple and believe in your product.” PX 204.

881. On or about May 24, 2017, an individual emailed Ripple that “I want to purchase XRP. what i need to invest in your coin?” PX 205.

882. On or about June 4, 2017, an individual “based out of New York City” emailed Ripple to note that he “would like to purchase XRP (ripple) with my USA Bank account.” PX 207.

883. On or about June 7, 2017, an individual with a cell phone number based in New York City emailed Ripple stating that “I WOULD LIKE TO BUY XRP STOCK.” PX 208.

884. On or about June 18, 2017, an individual with an area code from Alaska emailed Ripple stating that he “would like to expand my portfolio and purchase Ripple/XRP . . . I really like what Ripple/XRP is trying to accomplish and would like to start out with investing \$50,000.” PX 209.

885. On or about July 8, 2017, an individual emailed Ripple to note that “[w]e have invested heavily in XRP and want to invest more . . . But we keep hearing disturbing noises that Ripple and XRP are to be seen as two different companies . . . We love XRP but without reassurance that Ripple and XRP will keep working together it’s not a good idea to invest any more fiat into the project. Can you please ease our minds and reassure us Ripple and XRP will never split up?” PX 210.

886. On or about August 19, 2017, an individual emailed Ripple to ask “How do I buy Ripple (XRP) stock listed at \$0.16?” PX 213.

887. On or about August 21, 2017, an individual emailed Ripple stating that “I was looking for a US based exchange where I would be able to purchase XRP as a NY resident.” PX 214.

888. On or about August 27, 2017, an individual emailed Ripple stating that “I am very interested in purchasing \$XRP.X stock. However my current broker abd [sic] others i have searched do not have your symbol or company available. Is there any direction you can give me?” PX 216.

889. On or about September 1, 2017, an individual emailed Ripple to ask “how can i buy XRP Stocks and why is not showing up in Nasdaq?” PX 217.

890. On or about September 30, 2017, an individual emailed Ripple stating that “I’m looking to buy stock in XRP I use the trading app ‘Robinhood’, but have been unable to find a service or app to buy the stock. Any help would be appreciated.” PX 219.

891. On or about October 7, 2017, an individual emailed Ripple stating that “I would like to invest in your company and purchase XRP as business. please let me know what your requirements are and how can I do that directly without using Kraken bitstamp etc...?” PX 220.

892. On or about October 20, 2017, an individual emailed Ripple to ask: “. . . Am I correct that XRP is basically the ‘stock symbol’ for Ripple? And that buying XRP is like buying shares of Ripple? Therefore if I buy it at .30 and it’s [sic] value rises to .50 I’ve made that much profit on all the ‘shares’ I’ve accumulated? . . .” PX 222.

893. On or about October 20, 2017, an individual emailed Ripple stating that he was “new to cryptocurrency, have done research & like the look of your company. Am looking to buy shares but I believe I can also buy xrp currency, is that correct. What other information can you provide

me ie, the best way to buy XRP, previous performance (history), direction of Ripple company, how do i get company reports, how much does the CEO get paid (is his interest in the company or the very healthy pay check). . .” PX 158.

a. On or about November 20, 2017, an individual emailed Ripple to ask “How can buy the Ripple (XRP) stock in USA.” PX 223.

894. On or about December 5, 2017, an individual emailed Ripple stating that “I have invested in ripple xrp every unexpected coins are gaining but except ripple. I am planning to buy 100000 xrp please update me your goals.” PX 224.

895. On or about December 5, 2017, an individual emailed Ripple stating “Would like to buy xrp ripple stock. Cannot get through to any dealers.” PX 225.

896. On or about December 5, 2017, an individual emailed Ripple noting that “I’ve invested in XRP and want to see this succeed. I’ll continue investing at a rate I can afford. Is XRP currently the only way I can invest in Ripple?” PX 226.

897. On or about December 11, 2017, an individual emailed Ripple: “I just wanted to tell you that I believe in your company. After being retired from the FDNY for four years because of a disabling injury, I found myself wondering what the next part of my life was going to be like. That’s when I found Ripple. I have invested in your company because I see great potential in your vision and future. I decided to buy XRP to support your company by selling some items that I owned in my garage that I didn’t use anymore. it was the only way to find extra money to purchase it since we live pay check to pay check . . . I’ve finally purchased XRP and will hold onto it with the confidence that your company will become extremely successful.” PX 227.

898. On or about January 3, 2018, a US citizen emailed Ripple to note that he was “considering ‘investing’ in Ripple . . . I see I need to buy XRP, which seems to offer a number of

possible choices, but it's not clear to me what choice I should make, meaning the most secure, or how I go about that." PX 228.

899. On or about January 6, 2018, an individual emailed Ripple to "suggest that appointing and [sic] XRP Support Team would deliver great benefits for Ripple's XRP . . . You are blessed with a dedicated group of XRP holders who believe in Ripple Labs & what the company represents. They spend countless hours dedicated to showing their love & support. Showing them some genuine appreciation, respect, love & returning support in this way, I believe, will work wonders while truly cementing XRP as the peoples token. I'm not aware of any other offering such support or demonstrating their appreciation of their token holders in the trenches in such meaningful, genuine ways . . ." PX 229.

900. On or about January 12, 2018, an individual emailed Ripple to inform it "that an exchange you have listed where you can buy XRP has gone down and people can not access their money or any of those digital assets . . . I'm writing this because kraken is an exchange suggested on your website and perhaps you might be able to Find out what is going on with the exchange you have listed on your website. I am not a wealthy person an[d] put money into XRP because I truly believe in ripple." PX 230.

901. On or about January 12, 2018, an individual emailed Ripple stating that "I have invested in Ripple for and bought 24.626 XRP using the website of Kraken..." PX 231.

902. On or about January 14, 2018, an individual emailed Ripple and stated that it "seems like your XRP is a fancy way of offering shares in an pre IPO. If I have XRP tokens and you do decide to trade on a public platform and do an IPO one day, will I be able to convert by XRP tokens to real shares? . . ." PX 232.

903. On or about April 4, 2018, Laura Shin tweeted: “Yes^ + unlike bitcoin or ether, where the success isn’t dependent upon any particular entity but token users and developers contribute to the value of the system, with XRP, its success depends on Ripple getting banks & FIs to use it. An XRP holder can’t convince a bank to use XRP” PX 506.113, *available at* <https://twitter.com/laurashin/status/981675304711110656>.

904. On or about May 22, 2018, a blogger called “xrphodor” posted an article called “XRP: The Best Crypto Choice for Long-Term Investors.” PX 488, *available at* <https://xrphodor.wordpress.com/2018/05/22/xrp-the-best-crypto-choice-for-long-term-investors/>.

905. The May 22, 2018 article included the subheadings “A DEDICATED INTERNAL RIPPLE TEAM” and “Ripple’s Track Record,” and stated:

Is there any doubt in your mind which digital asset that astute financial analysts and investors will be investing in? Do your homework; and after doing your own research, see for yourself if you agree with me: XRP is the only cryptocurrency with the characteristics that are necessary to support global levels of commerce for a wide variety of use cases and applications. Yes, it’s the best cryptocurrency for settlement, but something tells me that speculators will soon prefer this digital asset over others for a store of value as well.

Id. at 2, 6.

906. On or about May 22, 2018, Garlinghouse forwarded a link to the “hodor” article to Will, Long, and another Ripple employee and stated in the subject line that “hodor is one of us!” PX 446.

907. In 2019, Ripple discussed a potential engagement with a reputable investment bank to consider selling Ripple’s equity to the public. PX 447 (Declaration of [REDACTED], dated September 8, 2022 (“[REDACTED] Decl.”)) at ¶ 3.

908. Based on its expertise, publicly available information, information about transactions in the securities of comparable companies, and information Ripple provided, the bank prepared a presentation for Ripple that included a framework for determining Ripple's valuation. PX 447 (██████ Decl.) at ¶ 5.

909. The bank's analysis explicitly tied Ripple's value to XRP's value and explained that any investment in Ripple assumed that Ripple had the financial incentive to continue to engage in efforts to increase XRP's price. PX 447 (██████ Decl.), Ex. A at 6-10.

910. Ripple's CFO and at least one other sophisticated valuation firm also valued Ripple based on Ripple's efforts to increase the value of XRP. PX 233 at 7-10.

911. In discussions with Ripple during November 2018, for example, the sophisticated valuation firm "made the point that it will be difficult to achieve the valuation that we want based on software revenues" and as a result, the firm's presentation to potential Ripple investors "goes very heavily towards XRP trading volumes." PX 234.

912. The valuation firm's presentation from November 2018 highlighted the fact that "Ripple is Uniquely Positioned to Build Upon this Momentum" in the cryptocurrency market because "Ripple is One of the Largest Holders of Digital Assets in the World," with holdings of XRP worth approximately \$28 billion. PX 235 at 6.

913. Ripple CFO Ron Will stated in an internal email from on or about December 18, 2018, that "our holding of XRP is our 'North Star' – and THE key driver of Ripple valuation." PX 206. Will also noted that "the long-term value of XRP is a component of the value of Ripple." PX 23 (Will Dep. Tr.) at 254:10-14.

914. At times, the market treated the terms "XRP" and "Ripple" as synonymous. For example, Ripple's Head of Regulatory Relations Ryan Zagone stated that around 2018 "there was

confusion in the market on Ripple versus XRP and the difference between the two,” and he “grew concerned and – and frustrated when there was just incorrect press reports conflating XRP and Ripple . . .” PX 19 (Zagone Dep. Tr.) at 176-77.

915. Similarly, in December 2017, Ripple’s legal department circulated internally a document entitled “How We Talk About XRP email and confluence 12212017” that provided guidance to Ripple employees as to how to publicly discuss XRP and Ripple in an effort to clarify the purported distinction between XRP and the company. PX 125 at 4.

916. Monica Long noted that there was “confusion” in the marketplace “between the asset [XRP] and our brand and our company,” such as when the press “would write stories about XRP, but they would call it Ripple.” Such Ripple-XRP confusion was a problem throughout her tenure in the marketing department. PX 17 (Long Dep. Tr.) at 206-07.

917. Garlinghouse noted that “people associate us with XRP.” As he explained, “market participants, particularly in 2017, had confusion around” the distinction between Ripple and XRP and that “in 2017 uneducated market participants mistakenly conflated Ripple and XRP . . .” According to Garlinghouse, Ripple engaged in persistent efforts to address this market confusion from at least 2017 through 2020, but the conflation between Ripple and XRP continued to persist even after that time. PX 81 (Garlinghouse Dep. Tr.) at 356:12-17, 357:24-358:5, 360-61, 474:2-11.

918. During a January 2018 discussion about the establishment of an XRP investment trust, Garlinghouse requested that the trust not use the name “Ripple,” to which the CEO of the firm behind the proposed trust responded: “If you are not using ‘Ripple’ in the context of XRP, we won’t either. But everybody else seems to be making that association . . . I just think we might be a ways off from the market knowing ‘XRP’ versus Ripple.” When Garlinghouse noted that “while we have a lot more work to do, I think people are coming around to using XRP over ‘Ripple’, the CEO

responded that “we do need to recognize that literally every reference we can find to XRP also include (and usually starts with) ‘Ripple.’” PX 93 at 5-8.

919. On or about May 1, 2018, Ripple reached out to a journalist in an attempt to change references in an article to “Ripple’s XRP.” The journalist responded to Ripple: “[I] am not going to make the change. I get why you guys care but average reader doesn’t know or care about the distinction. It is referred to as Ripple everywhere.” PX 236 at 1.

920. When in March 2018 Ripple tried to convince [REDACTED] to remove from an article a statement that XRP is “the only popular coin that is run by a company,” the reporter rejected Ripple’s request because it was “pretty absurd to dispute that XRP is run by a company.” PX 237 at 1-2.

921. One XRP purchaser “understood that Ripple’s mission was to facilitate global transactions in *Ripple*” and “hoped to make a profit from investing in XRP and then by selling XRP on a digital asset platform at an opportune time.” PX 542 (Declaration of Hilary Zuckerman) ¶¶ 10-12. “The fact that that there was a company behind XRP” was a “distinguishing factor” in this individual’s “decision to purchase XRP.” *Id.*

922. Another XRP purchaser “did not purchase XRP for any consumptive use” but rather “as an investment with the expectation that [he] would be able to profit from that purchase by selling XRP at a higher price,” which “expectation was based on Ripple’s promotional activity” including “repeated representations that adoption of XRP by financial institutions would increase demand for XRP.” PX 544 (Declaration of Bradly Sostack) ¶¶ 4-5.

923. RESERVED.

924. RESERVED.

925. RESERVED.

H. Defendants Did Not Register their Offers and Sales of XRP.

926. On or about August 27, 2019, for example, Garlinghouse tweeted that “@Ripple continues to set industry standards in reporting and transparency (one example is our quarterly markets report). We lay it all out, and it’s not our “view” but fact.” PX 506.122, *available at* <https://twitter.com/bgarlinghouse/status/1166455844172525568>.

927. On or about October 9, 2019, Garlinghouse claimed on a podcast that Ripple is “ten or a hundred times more transparent than anyone in the crypto community.” Marie Huillet, Ripple CEO: Our Transparency Has Opened Us Up To Attack, Cointelegraph (Oct. 11, 2019), *available at* <https://cointelegraph.com/news/ripple-ceo-our-transparency-has-opened-us-up-to-attack>.

928. Defendants never filed a registration statement with the SEC in connection with their offers and sales of XRP. PX 80 (Ripple Ans.) ¶¶ 2, 4, 8, 60, 72, 222, 393; PX 1 (Larsen Ans.) ¶ 60; PX 201 (Garlinghouse Ans.) ¶ 60.

929. Nor has Ripple ever filed or made public the sort of information otherwise required by the federal securities laws as to Ripple or XRP. PX 238 (██████ Rep.) at 28-29; PX 510.

930. For example, Ripple has never made any EDGAR filings with the SEC for Ripple or for XRP, including the filing of a Form 10-Q, Form 10-K, or Form 8-K relating to XRP. PX 8, (Ripple RFA Responses) Nos. 227-28, 736; PX 94 (Ripple RFA Responses) No. 736.

931. Ripple has never publicly filed any reports – including financial statements or other periodic filings – required under the Securities Exchange Act of 1934. PX 8 (Ripple RFA Responses) Nos. 230; PX 94 (Ripple RFA Responses) No. 732.

932. Ripple did not release its annual financial statements to the general public prior to December 22, 2020, nor did it provide such statements to all XRP purchasers. PX 94 (Ripple RFA Responses) Nos. 733-35.

933. Ripple has not always publicly provided complete information about its business activities. PX 540; PX 130.

934. For example, the XRP Markets Reports that Ripple provides to investors on its website do not disclose all of Ripple's XRP distributions and, in the words of a Ripple employee, are thus "not a good representation of the XRP that was introduced into the market." PX 22 (Samarasinghe Tr.) at 265-66.

935. As one Ripple employee noted in an internal email: "I think it's critical we help [REDACTED] understand that their timing [of distributing almost [REDACTED] of XRP in a single week] has a real and deleterious effect on Ripple," and that these sales "get noticed," including by people on "twitter" that are going to "call the transaction out." PX 240.

936. CFO Will acknowledged that Ripple never disclosed any related-party transactions; trading activity by Ripple executives; risks relating to its business; or information about executive compensation. PX 23 (Will Dep. Tr.) at 25-27.

937. Defendants claim Ripple has no obligation to provide full information about its business, because it is a "private company" that takes "significant measures to safeguard" the confidentiality of its financial condition. D.E. 562 at 2; PX 23 (Will Dep. Tr.) at 303 (Ripple CFO noting that "[a]s a private company, Ripple is under no obligation to provide, broadly, its financial statements").

I. The DAO Report and SEC Enforcement Actions Involving Crypto Assets

(i) The DAO Report

938. On July 25, 2017, the SEC issued a *Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO*, regarding the issuer of a "decentralized" digital token that

sold the token to public investors in order to fund its business operations. SEC Rel. No. 81207, available at <https://www.sec.gov/litigation/investreport/34-81207.pdf> (“DAO Report”) at 1, 4.

939. The DAO Report considered the offer and sale of “DAO tokens” and concluded they were investment contracts under the standards articulated in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946), and subsequent decisions applying *Howey*. DAO Report at 11-15.

940. The DAO Report stated: “The Commission deems it appropriate and in the public interest to issue this report of investigation (‘Report’) pursuant to Section 21(a) of the Exchange Act to advise those who would use a Decentralized Autonomous Organization (‘DAO Entity’), or other distributed ledger or blockchain-enabled means for capital raising, to take appropriate steps to ensure compliance with the U.S. federal securities laws.” *Id.* at 1-2.

941. The DAO Report stated: “This Report reiterates these fundamental principles of the U.S. federal securities laws and describes their applicability to a new paradigm—virtual organizations or capital raising entities that use distributed ledger or blockchain technology to facilitate capital raising and/or investment and the related offer and sale of securities.” *Id.* at 2.

942. The DAO Report stated:

The Commission is aware that virtual organizations and associated individuals and entities increasingly are using distributed ledger technology to offer and sell instruments such as DAO Tokens to raise capital. These offers and sales have been referred to, among other things, as “Initial Coin Offerings” or “Token Sales.” Accordingly, the Commission deems it appropriate and in the public interest to issue this Report in order to stress that the U.S. federal securities law may apply to various activities, including distributed ledger technology, depending on the particular facts and circumstances, without regard to the form of the organization or technology used to effectuate a particular offer or sale. In this Report, the Commission considers the particular facts and circumstances of the offer and sale of DAO Tokens to demonstrate the application of existing U.S. federal securities laws to this new paradigm.

Id. at 10.

943. The DAO Report stated: “Foundational Principles of the Securities Laws Apply to Virtual Organizations or Capital Raising Entities Making Use of Distributed Ledger Technology.”

Id. at 11.

944. The DAO Report stated:

Whether or not a particular transaction involves the offer and sale of a security—regardless of the terminology used—will depend on the facts and circumstances, including the economic realities of the transaction. Those who offer and sell securities in the United States must comply with the federal securities laws, including the requirement to register with the Commission...These requirements apply to those who offer and sell securities in the United States, regardless whether the issuing entity is a traditional company or a decentralized autonomous organization, regardless whether those securities are purchased using U.S. dollars or virtual currencies, and regardless whether they are distributed in certificated form or through distributed ledger [also known as “blockchain”] technology.

Id. at 17-18.

(ii) SEC Digital Asset Enforcement Actions

945. Between September 2017 and December 2020, the SEC filed at least 35 actions where it alleged unregistered distribution of digital assets violated Section 5 of the Securities Act of 1933 (“Securities Act”).

946. On September 29, 2017, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. REcoin Group Foundation, LLC, et al.*, No. 17-cv-5725 (E.D.N.Y. Sept. 29, 2017).

947. On December 1, 2017, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. PlexCorps, et al.*, No. 17-cv-7007 (E.D.N.Y. Dec. 1, 2017).

948. On Dec. 11, 2017, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities

Act. *See In the Matter of Munchee Inc.*, Administrative Proceeding File No. 3-18304 (Dec. 11, 2017), available at <https://www.sec.gov/litigation/admin/2017/33-10445.pdf>.

949. On January 25, 2018, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Arisebank, et al.*, No.18-cv-186 (N.D. Tex. Jan. 25, 2018).

950. On April 2, 2018, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Sharma, et al.*, No. 18-cv-2909 (S.D.N.Y. Apr. 2, 2018).

951. On May 22, 2018, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Titanium Blockchain Infrastructure Services, Inc., et al.*, No. 18-cv-4315 (C.D. Cal. May 22, 2018).

952. On August 14, 2018, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Tomahawk Exploration LLC, et al.*, Administrative Proceeding File No. 3-18641 (Aug. 14, 2018), available at <https://www.sec.gov/litigation/admin/2018/33-10530.pdf>.

953. On October 3, 2018, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Blockvest, LLC, et al.*, No. 18-cv-2287 (S.D. Cal. Oct. 3, 2018).

954. On November 16, 2018, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of CarrierEQ, Inc.*, Administrative Proceeding File No. 3-18898 (Nov. 16, 2018), available at <https://www.sec.gov/litigation/admin/2018/33-10575.pdf>.

955. On November 16, 2018, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Paragon Coin, Inc.*, Administrative Proceeding File No. 3-18897 (Nov. 16, 2018), *available at* <https://www.sec.gov/litigation/admin/2018/33-10574.pdf>.

956. On February 20, 2019, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Gladius Network LLC*, Administrative Proceeding File No. 3-19004 (Feb. 20, 2019), *available at* <https://www.sec.gov/litigation/admin/2019/33-10608.pdf>.

957. On May 13, 2019, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Natural Diamonds Investment Co., et al.*, No.19-cv-80633 (S.D. Fla. May 13, 2019).

958. On June 4, 2019, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Kik Interactive Inc.*, No.19-cv-5244 (S.D.N.Y. June 4, 2019),

959. On August 12, 2019, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Middleton, et al.*, No.19-cv-4625 (E.D.N.Y. Aug. 12, 2019).

960. On August 12, 2019, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of SimplyVital Health, Inc.*, Administrative Proceeding File No. 3-19332 (Aug. 12, 2019), *available at* <https://www.sec.gov/litigation/admin/2019/33-10671.pdf>.

961. On August 29, 2019, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Bitqyck, Inc., et al.*, No. 19-cv-2059 (N.D. Tex. Aug. 29, 2019).

962. On September 18, 2019, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. ICOBox, et al.*, No. 19-cv-8066 (C.D. Cal. Sept. 18, 2019).

963. On September 20, 2019, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Lucas*, No. 19-cv-8771 (S.D.N.Y. Sept. 20, 2019).

964. On September 30, 2019, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Block.one*, Administrative Proceeding File No. 3-19568 (Sept. 30, 2019), *available at* <https://www.sec.gov/litigation/admin/2019/33-10714.pdf>.

965. On October 11, 2019, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Telegram Group Inc., et al.*, No. 19-cv-9439 (S.D.N.Y. Oct. 11, 2019).

966. On December 11, 2019, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Eran Eyal, et al.*, No. 19-cv-11325 (S.D.N.Y. Dec. 11, 2019).

967. On December 18, 2019, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Blockchain of Things, Inc.*, Administrative Proceeding File No. 3-19621 (Dec. 18, 2019), *available at* <https://www.sec.gov/litigation/admin/2019/33-10736.pdf>.

968. On January 21, 2020, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Grybniak, et al.*, No. 20-cv-327 (E.D.N.Y. Jan. 21, 2020).

969. On February 19, 2020, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Enigma MPC*, Administrative Proceeding File No. 3-19702 (Feb. 19, 2020), *available at* <https://www.sec.gov/litigation/admin/2020/33-10755.pdf>.

970. On March 16, 2020, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Meta 1 Coin Trust, et al.*, No. 20-cv-273 (W.D. Tex. Mar. 16, 2020).

971. On April 23, 2020, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Dropil Inc., et al.*, No. 20-cv-793 (C.D. Cal. Apr. 23, 2020).

972. On May 28, 2020, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of BitClave PTE Ltd.*, Administrative Proceeding File No. 3-19816 (May 28, 2020), *available at* <https://www.sec.gov/litigation/admin/2020/33-10788.pdf>.

973. On June 25, 2020, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Abramoff*, No. 20-cv-4190 (N.D. Cal. June 25, 2020).

974. On June 25, 2020, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. NAC Foundation, LLC, et al.*, No. 20-cv-4188 (N.D. Cal. June 25, 2020).

975. On August 13, 2020, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Kelvin Boon, LLC, et al.*, Administrative Proceeding File No. 3-19913 (Aug. 13, 2020), *available at* <https://www.sec.gov/litigation/admin/2020/33-10817.pdf>.

976. On September 10, 2020, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. FLiK, et al.*, No. 20-cv-3739 (N.D. Ga. Sept. 10, 2020).

977. On September 11, 2020, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Clifford Harris, Jr.*, Administrative Proceeding File No. 3-19990 (Sept. 11, 2020), *available at* <https://www.sec.gov/litigation/admin/2020/33-10836.pdf>.

978. On September 15, 2020, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Unikern, Inc.*, Administrative Proceeding File No. 3-20003 (Sept. 15, 2020), *available at* <https://www.sec.gov/litigation/admin/2020/33-10841.pdf>.

979. On September 25, 2020, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of SoluTech, Inc., et al.*, Administrative Proceeding File No. 3-20071 (Sept. 25, 2020), *available at* <https://www.sec.gov/litigation/admin/2020/33-10853.pdf>.

980. On September 30, 2020, the SEC issued an Order Instituting Administrative Proceedings in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See In the Matter of Salt Blockchain Inc., f/k/a Salt Lending Holdings, Inc.*, Administrative

Proceeding File No. 3-20106 (Sept. 30, 2020), *available at*
<https://www.sec.gov/litigation/admin/2020/33-10865.pdf>.

981. On December 9, 2020, the SEC filed a complaint in which the SEC alleged that offers and sales of a digital asset violated Section 5 of the Securities Act. *See SEC v. Elmaani*, No. 20-cv-10376 (S.D.N.Y. Dec. 9, 2020).

(iii) Private Section 5 Class Action

982. On May 3, 2018, a proposed class action complaint against Ripple, Garlinghouse, and others was filed in California state court, in which the plaintiff alleged that Ripple’s and Garlinghouse’s unregistered offers and sales of XRP violated Section 5 of the Securities Act. *See Coffey v. Ripple Labs, Inc.*, No. CGC-18-566271 (Cal. Sup. Ct., San Francisco Cty., May 3, 2018).

(iv) Other SEC Guidance

983. On approximately June 14, 2018, then-SEC Director of the Division of Corporation Finance, Bill Hinman, delivered a speech titled “Digital Asset Transactions: When Howey Met Gary (Plastic).” PX 241.

984. In his speech, Hinman mentioned Bitcoin and Ether, but did not mention XRP. *Id.*

985. In that speech, Hinman stated:

What are some of the factors to consider in assessing whether a digital asset is offered as an investment contract and is thus a security? Primarily, consider whether a third party – be it a person, entity or coordinated group of actors – drives the expectation of a return. That question will always depend on the particular facts and circumstances, and this list is illustrative, not exhaustive:

1. Is there a person or group that has sponsored or promoted the creation and sale of the digital asset, the efforts of whom play a significant role in the development and maintenance of the asset and its potential increase in value?
2. Has this person or group retained a stake or other interest in the digital asset such that it would be motivated to expend efforts to cause an increase in value in the digital asset? Would purchasers reasonably believe such efforts will be undertaken and may result in a return on their investment in the digital asset?

Id. at 4.

J. Defendants Knew that their XRP Transactions Could Violate Section 5.

986. In February 2012, certain of Ripple’s founders, including Larsen, received a memorandum (the “February 2012 Memo”) from the law firm Perkins Coie analyzing the “legal risks” associated with the digital token that would eventually be called XRP. PX 242; PX 80 (Ripple Ans.) ¶¶ 44, 56; PX 8 (Ripple RFA Responses) Nos. 13, 14.

987. In October 2012, Larsen, OpenCoin, and others received another Perkins Coie memorandum (the “October 2012 Memo”) providing “recommendations for mitigating relevant legal risks” associated with “Ripple Credits,” a predecessor name to XRP. PX 243.

988. Both the February 2012 Memo and the October 2012 Memo cite *Howey* and analyze XRP’s precursor token using *Howey*’s guidance for determining the existence of offers and sales investment contracts. PX 242 at 0287886-89; PX 243 at 0099477-80.

989. The February 2012 Memo stated: “If sold to Investors, [the tokens] are likely to be securities,” that tokens “not initially sold may still constitute securities if sold at a later date,” and “[t]o the extent that these [tokens] are purchased with an expectation of profit because of the efforts of [persons] promoting the [tokens], there is a risk that [the tokens] will constitute investment contracts and be subject to federal securities regulation.” PX 242 at 0287879.

990. The February 2012 Memo stated: “Do not sell [the tokens]” because the “sale of [the tokens] to Investors increases the risk that [the tokens] will be considered investment contracts and will therefore be regulated as securities.” *Id.* at 0287881.

991. The February 2012 Memo stated: “profit motivates purchasers of...crypto currencies,” and “[t]he claim that there is no expectation of profit is weakened to the extent that Founders sell [tokens] to Investors for a specified amount of money.” *Id.* at 0287887.

992. The February 2012 Memo stated “Founders...should not provide Coins to Investors in exchange for their investment and should not participate in the sale of Coins in order to reduce the risk that Coins will be considered securities and regulated by the Securities Act of 1933 and the Securities Exchange Act of 1934.” *Id.* at 287888.

993. The October 2012 Memo stated:

Although we believe that a compelling argument can be made that Ripple Credits do not constitute “securities”... given the lack of applicable case law, we believe that there is some risk, albeit small, that the Securities and Exchange Commission (“SEC”) disagrees with our analysis. The more that Founders and Company promote Ripple Credits as an investment opportunity, the more likely it is that the SEC will take action and argue that Ripple Credits are “investment contracts” and thus securities....to the extent that Ripple Credits are purchased with an expectation of profit because of the efforts of Company, Founders and/or others promoting the Ripple Credits, there is a risk that Ripple Credits will constitute investment contracts and be subject to federal securities regulation...

PX 243 at 0099466.

994. The October 2012 Memo stated: “Actively promoting the trading of Ripple Credits as an investment opportunity or its potential to increase in value could result in regulatory scrutiny or accusations that Ripple Credits are investment contracts, and hence securities subject to the federal securities laws.” *Id.* at 0099469.

995. The October 2012 Memo stated: “The Ripple Network has a greater risk of being seen as a common enterprise because there will be a specific entity, Company, which is responsible for the distribution of Ripple Credits and the promotion and marketing functions of the Ripple Network.” *Id.* at 0099479.

996. The October 2012 Memo stated: “Founders and NewCo, therefore, should steer clear of promoting Ripple Credits as an investment opportunity or as a speculative investment trading vehicle.” *Id.* at 0099478.

997. Under a heading “**Ways to Diminish the Risk that Ripple Credits are Deemed to be Securities,**” the October 2012 Memo stated: “obtaining a no-action letter [from the SEC] would provide further comfort that Ripple Credits are not securities under the federal securities laws.” *Id.* at 0099480.

998. Larsen reviewed both the February 2012 Memo and October 2012 Memo in 2012, and discussed them with Perkins Coie attorneys. PX 2 (Larsen Tr.) at 237:7-238:21, 241:10-244:9).

999. In May 2014, Larsen wrote in an email that “analysis from Perkins Coie was that investors and employees could not receive XRP, could risk SEC designation [as] a security.” Larsen also wrote that certain of Ripple’s founders “assumed risk of [being] issuers which persists today” and received “comp” for “personally assuming this risk.” PX 244 at 0057498; PX 2 (Larsen Tr.) at 237:7-244:9; PX 1 (Larsen Ans.) ¶ 56.

1000. The Paul Hastings law firm prepared a memorandum (the “Paul Hastings Memo”) for Ripple, dated February 27, 2015, which analyzed whether XRP falls under the definition of a “security” under federal and state securities laws and is subject to regulation by federal and state securities agencies. PX 245; PX 246.

1001. The Paul Hastings Memo analyzes XRP under an application of the *Howey* test. PX 245 at 1002121-25.

1002. The Paul Hastings Memo (a) “concludes that XRP likely should not be treated as a security under federal and state law,” (b) “notes that XRP presents more risk of being deemed a security than other virtual currencies by virtue of the close relationship between Ripple Labs and XRP” and (c) “suggests steps that Ripple Labs may take in promoting and selling XRP to reduce this risk. *Id.* at 1002118.

1003. The Paul Hastings Memo stated that Ripple would face an “uphill argument” to overcome the burden of establishing that XRP is exempt from the securities laws on the grounds that it is a “currency.” *Id.* at 1002121-22 n.12.

1004. The Paul Hastings Memo stated: “it is possible to build a superficial argument that, at first blush, would seem to support a conclusion that XRP satisfies the second and third prongs of *Howey*. Ripple Labs has a much closer connection to XRP than the participants in the Bitcoin ecosystem have to Bitcoin or the Bitcoin Foundation. At least initially, Ripple Labs and the founders of Ripple Labs owned all XRP. Moreover, Ripple Labs pools the money that it receives from the sale of XRP, and it uses those funds to promote and expand the Ripple ecosystem. At various times, Ripple Labs has also claimed that its value is tied to the value of XRP, and it has used XRP to compensate early employees of Ripple Labs. It also exercised some control over the sale of XRP, restricting the ability of the founders to dispose of XRP to protect, at least in part, the value of XRP.” *Id.* at 1002124.

1005. The Paul Hastings Memo stated: “The relationship between XRP and Ripple Labs distinguishes XRP from certain other virtual currencies. Bitcoin, for example, does not have a single identifiable promoter. Rather, Bitcoin relies on miners to create and introduce new currency into the ecosystem. The Ripple ecosystem’s reliance on the efforts of Ripple Labs-the single largest holder of XRP-to promote and expand the ecosystem, creates greater risk that XRP might be deemed a security as compared to other virtual currencies.” *Id.* at 1002124 n.36.

1006. The Paul Hastings Memo stated: “In order to help mitigate the risk of XRP being deemed a security, Ripple Labs should be extremely careful in promoting and selling XRP. Regulators will look to Ripple Lab’s public documents and documents provided to potential purchases of XRP in applying the *Howey* test. As such, statements touting XRP as an investment

opportunity and the potential profits that buyers may derive from XRP's appreciation in value would tend to support the argument that XRP functions as a security. In drafting these documents, Ripple Labs should focus instead on promoting XRP's intrinsic utility as instrument of trade." *Id.* at 1002125.

1007. The Paul Hastings Memo stated: "the SEC has viewed virtual currencies, particularly Bitcoin, as sources of value rather than securities under the Federal securities laws. However, the SEC appears to be monitoring this area very closely, and has even establish a Digital Currency Working Group. While the agency is generally restricted from deviating outside the bounds of the federal statutory and case law outline above, it could always take a more aggressive position on virtual currencies, particularly regarding those, like XRP, that raise more regulatory questions than Bitcoin." *Id.* at 1002126-27.

1008. By March 2015, Ripple was contemplating the formation of the "Long Term Ripple Fund, LP," an investment vehicle that would invest in XRP and be offered to "accredited investors" under Regulation D of the Securities Act. PX 247 at 0287566-67, 572, 576; PX 247 at 0287556; PX 249 at 0199559; PX 10 (Rapoport Tr.) at 254:8-257:7.

1009. A March 2015 draft of a Private Placement Memorandum for the Long Term Ripple Fund, LP contained the following statements in a section titled "Risks Relating to Government Oversight":

Regulatory changes or actions may alter the nature of an investment in the Interests or restrict the use of XRPs or the operation of the Ripple protocol in a manner that adversely affects an investment in the Interests.

As virtual currencies, such as Bitcoin, Litecoin, Dogecoin and XRP, have grown in both popularity and market size, the U.S. Congress and a number of U.S. federal and state agencies (including the Financial Crimes Enforcement Network of the U.S. Department of the Treasury ("**FinCEN**") the **SEC**, the Commodities Futures Trading Commission ("**CFTC**"), the Financial Industry Regulatory Authority ("**FINRA**"), the Consumer Financial Protection Bureau ("**CFPB**"), the

Department of Justice, the Department of Homeland Security, the Federal Bureau of investigation, the U.S. Internal Revenue Service (“IRS”), and state financial institution regulators) have begun to examine the operations of the virtual currency networks and virtual currency related businesses, their users and the exchange markets, with particular focus on (i) the extent to which virtual currencies can be used to launder the proceeds of illegal activities or fund criminal or terrorist enterprises, (ii) the safety and soundness of exchanges or other service providers that hold or transmit virtual currency for users and (iii) other risks to investors and consumers who hold and use virtual currency. On-going and future regulatory actions may alter, perhaps to a materially adverse extent, the nature of an investment in the Interests, the value of XRP or the ability of the Fund to continue to operate.

* * *

Currently, neither the SEC nor the CFTC has formally asserted regulatory authority over XRP, the virtual currency networks or XRP trading and ownership. On May 7, 2014, the SEC published an investor alert that highlighted fraud and other concerns relating to certain investment opportunities denominated in virtual currency and fraudulent and unregistered investment schemes targeted at participants in online bitcoin forums. A CFTC Commissioner stated publicly that the CFTC should consider regulating bitcoins. On October 9, 2014, the CFTC held a hearing on bitcoin that focused on the benefits of the Bitcoin Network and on the launch of TeraExchange, a platform for bitcoin derivative contracts that was approved by the CFTC. Although the SEC has taken action indicating that it has jurisdiction over securities that relate to bitcoin (for example, with respect to the Interests in this Fund), and the CFTC has taken action indicating that it has jurisdiction over certain bitcoin derivatives with respect to TeraExchange’s platform, as of the date of this Memorandum, the Investment Manager is not aware of any rules that have been proposed to regulate virtual currency as a commodity or a security. To the extent that virtual currencies are determined to be a security, commodity or other regulated asset, or to the extent that a U.S. or foreign government or quasi-governmental agency exerts regulatory authority over virtual currency networks or virtual currency trading and ownership, trading or ownership in XRP or the Interests may be adversely affected.

* * *

If regulatory changes require the regulation of virtual currencies under the Commodity Exchange Act, as amended (the “CEA”), by the CFTC and/or under the Securities Act and the Investment Company Act by the SEC, the Fund and the Manager may be required to register and comply with such regulations. To the extent that the Manager decides to continue the Fund, the required registrations and regulatory compliance steps may result in extraordinary, recurring, and/or non-recurring expenses to the Fund. The Manager may also decide to terminate the Fund. Termination of the Fund in response to the changed regulatory circumstances may be at a time that is disadvantageous to investors.

Current and future legislation, CFTC and SEC rulemaking and other regulatory developments may impact the manner in which virtual currencies are treated for

classification and clearing purposes. In particular, XRPs may not be excluded from the definition of “commodity” for CFTC purposes or XRPs may become a “security” for future SEC purposes. As of the date of this Memorandum, the Manager is not aware of any rules that have been proposed to regulate XRPs as a commodity or a security. Although several United States federal district courts have recently held for certain purposes that virtual currencies are currency or a form of money, these rulings are not necessarily indicative of the characterization of XRPs for other purposes and the Manager and the Fund cannot be certain as to how future regulatory developments will impact the treatment of XRPs under the law.

* * *

To the extent that XRPs are deemed to fall within the definition of a security for SEC purposes, the Fund and the Manager may be required to register and comply with additional regulation under the Investment Company Act of 1940. Moreover, the Manager may be required to register as an investment adviser under the Investment Adviser Act of 1940 and register the Fund as an investment company. Such additional registrations may result in extraordinary, recurring and/or non-recurring expenses of the Fund, thereby materially and adversely impacting the Interests. If the Manager determines not to comply with such additional regulatory and registration requirements, the Manager will terminate the Fund. Any such termination could result in the liquidation of the Fund’s XRPs at a time that is disadvantageous to an investor in the Interests.

* * *

The relationship between XRP and Ripple Labs distinguishes XRP from certain other virtual currencies. Bitcoin, for example, does not have a single identifiable promoter. Rather, Bitcoin relies on miners to create and introduce new currency into the ecosystem. The Ripple ecosystem’s reliance on the efforts of Ripple Labs—the single largest holder of XRP—to promote and expand the ecosystem, creates greater risk that XRP might be deemed a security as compared to other virtual currencies and Ripple Labs might be deemed to be operating as an unregistered securities exchange, broker, or dealer under federal and State securities laws.

PX 247 at 0287581-587.

1010. On October 31, 2016, Ripple Chief Compliance Officer, Antoinette O’Gorman responded to an email from a Ripple employee asking her: “Can XRP be both a currency (FinCEN territory) and a commodity (CFTC territory)?” PX 250 at 0761766.

1011. In her email, which copied Garlinghouse, O’Gorman wrote: “Yes, it can, and more. IRS is of the opinion that virtual currency is ‘property’, CFTC treats it as a ‘commodity,’ FinCEN has stated their opinion that ‘virtual currency operates as ‘real’ currency in some environments’ and

the SEC may well come out on the side that certain crypto-currencies are securities.” *Id.* at 0761766; PX 18 (O’Gorman Tr.) at 179:8-181:21.

1012. By early 2017, Ripple’s Director of Regulatory Relations, Ryan Zagone, was aware that the SEC could determine that XRP was a security and subject to its jurisdiction. PX 30 (Zagone Tr.) at 129:23-130:9.

1013. On January 3, 2017, O’Gorman emailed Zagone and directed him to add as one of his priorities for the first quarter of 2017: “XRP as NOT a Security.” PX 251 at 0908880; PX 30 (Zagone Tr.) at 139:7-140:9.

1014. On March 11, 2017, O’Gorman sent Garlinghouse an email which stated: “XRP certainly has some ‘securities-type’ characteristics and we do need to hone our playbook / messaging.” PX 252 at 0270740.

1015. In approximately April 2017, O’Gorman and Ripple’s general counsel gave a presentation to various Ripple teams, including MarComm and Customer Support, in which they reviewed how XRP could be evaluated under *Howey*. PX 253 at 0762228; PX 254 at 0083484; PX 18 (O’Gorman Tr.) at 264:20-266:3, 270:14-273:18, 332:25-338:13.

1016. After the SEC issued the DAO Report in July 2017, O’Gorman discussed the report with both Larsen and Garlinghouse. PX 18 (O’Gorman Tr.) at 127:16-129:4; PX 2 (Larsen Tr.) at 290:2-21; PX 81 (Garlinghouse Dep. Tr.) at 41:21-42:2.

1017. While she was Ripple’s CCO, O’Gorman discussed with Garlinghouse that there was a risk that XRP could be deemed a security, depending on facts and circumstances and guidance from the SEC. PX 18 (O’Gorman Tr.) at 137:20-139:7.

1018. Zagone understood that a company can request a “No Action” letter from the SEC, in which the SEC would provide assurance that the company’s conduct would not result in an enforcement action from the SEC. PX 19 (Zagone Tr.) at 50:10-18.

1019. An individual or entity who is not certain whether a particular product, service, or action would constitute a violation of the federal securities law may request a No-Action letter from the SEC staff. <https://www.investor.gov/introduction-investing/investing-basics/glossary/no-action-letters>

1020. “Most No-Action letters describe the request, analyze the particular facts and circumstances involved, discuss applicable laws and rules, and, if the SEC staff grants the request for no action, concludes that the SEC staff would not recommend that the Commission take enforcement action against the requester based on the facts and representations described in the individual’s or entity’s request. The SEC staff sometimes responds in the form of an interpretive letter to requests for clarifications of certain rules and regulations.”

<https://www.investor.gov/introduction-investing/investing-basics/glossary/no-action-letters>

1021. The No-Action letter process is a routine and common practice for market participants to gain an understanding of whether their proposed activity complies with the federal securities laws, including whether offers and sales of an instrument involves an “investment contract.” PX 238 at 26-27; <https://www.investor.gov/introduction-investing/investing-basics/glossary/no-action-letters>; <https://www.sec.gov/corpfin/corpfin-no-action-letters>.

1022. Ripple never requested a No-Action Letter form the SEC with respect to its XRP distributions. PX 8 (Ripple RFA Responses) No. 207.

1023. Ripple’s legal team was responsible for Ripple’s compliance with the U.S. securities laws and set Ripple’s strategy for its communications on the XRP securities classification issue. PX 18 (O’Gorman Tr.) at 54:12-23; PX 17 (Long Tr.) at 273:25-274:2.

1024. On December 21, 2017, Ripple’s general counsel emailed the P.R. Agency and Long an “internal draft message re how to talk about XRP.” PX 125; PX 18 (O’Gorman Tr.) at 292:7-19.

1025. The document Ripple’s general counsel sent to the P.R. Agency on or about December 21, 2017 was titled “How We Talk About XRP (From Your Legal Department),” and stated: “digital assets are a new technology that many regulators are trying to understand. So how we talk about XRP will inform regulators’ understanding of XRP, which in turn will inform their treatment of XRP. In particular, we want to be careful that XRP isn’t misunderstood as a **security** belonging to Ripple. This misunderstanding could lead to lots of headaches.” PX 125 at 0624330.

1026. The document Ripple’s general counsel sent to the P.R. Agency on or about December 21, 2017 stated:

“When we talk about XRP, talk about it’s utility. XRP is a unique and valuable asset, separate from Ripple, with distinct qualities that can further enable cross border payments. A key part of our messaging is that Ripple (the Company) is focused on efforts to develop use cases for this unique digital asset to better solve real world problems. Notice the distinction: XRP is a valuable and unique asset **separate** from Ripple **and** Ripple the Company is interested in developing products and use cases for this unique digital asset.

To better illustrate the distinction, here’s a handy cheat sheet:

Instead of this...	Say this...
Ripple’s XRP	XRP, or a digital asset native to the XRP Ledger
We are working hard to increase the price of XRP!	We are working hard to create compelling uses for XRP, a unique digital asset
XRP is a strong, long term investment	XRP is a unique and valuable digital asset
Trading in Ripple	Trading in XRP

We're up xx% today	XRP is up _% today
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Id. at 0624330, 32.

1027. The document Ripple's general counsel sent to the P.R. Agency on or about December 21, 2017 stated:

Why do we care that Ripple and XRP are distinct? The distinction matters for several reasons.

First, we like accuracy. Ripple the Company didn't create XRP. 100 billion XRP were created ***before*** the Company was created, and after Ripple was founded the creators of XRP gifted much of that XRP to the Company. So XRP ***isn't our*** digital currency.

Second, because digital assets are a new technology and many regulators are trying to understand what they are and how to regulate them, how we talk about XRP matters. We want to be careful that XRP isn't misunderstood as a security belonging to Ripple. This misunderstanding could lead to lots of headaches given the body and requirements of securities laws.

Securities laws Securities laws were created to protect markets and consumers from things like fraud, information imbalance, market manipulation and insider trading. Given the potential for consumer harms, our laws require Securities to be registered, and place several additional reporting, disclosure, oversight and operational responsibilities on companies issuing securities. (Some examples are 10-k filings, prospectuses, and the many other filings related to securities. In short, it's a highly regulated space.)

What are Securities? Securities (think stocks) have particular qualities to them. On the most basic level, they represent an ownership interest or right in something. They're characterized by individual/institutional investments of money in a common enterprise with the expectation of profits and returns, where the value and profits are tied to the efforts of others. These are guidelines we've had for the last 70 years - so you can imagine we weren't thinking about digital assets when they were developed (we were hardly thinking about mainframes!). Yet the framework is what we still use today....

Is that enough to squarely say regulators won't treat XRP as a security? Not quite. Because digital assets are a new technology, regulators (think the Security and Exchange Commission) may want to treat them like a security because digital assets are not widely understood – or because we've talked about XRP or treated XRP like a security. (There are not bright lines here, and how we talk about a digital asset can make a difference!)

So if XRP were treated like a security that belongs to Ripple, what would happen? Ripple would need to figure out how we would register with the SEC and give all of the disclosures relevant to securities - even though we don't control the asset. Messy. And a misfit of

technology and regulation. So how do we avoid this? Education and thoughtful, accurate communication and messaging!

We need to talk about XRP as a ***separate, digital asset with unique attributes and inherent value*** separate from Ripple the Company. We can absolutely talk (and should talk!) about all of the use cases for XRP that Ripple is supporting - and how our Company efforts are directed toward those use cases, like building solutions that anticipate XRP as a bridge currency.

Id. at 0624331-32.

1028. In approximately March 2018, Garlinghouse gave a speech in which he stated: “There isn’t regulatory uncertainty....[r]egulatory uncertainty...means...that I disagree with the regulatory certainty so I’m going to call it regulatory uncertainty.” PX 503.11.

1029. On March 8, 2018, Garlinghouse Tweeted: “In context of yesterday’s SEC statement(s), I hear some in crypto talk about the current ‘regulatory uncertainty.’ What’s uncertain?! SEC’s statements have been consistent and clear. ‘Regulatory uncertainty’ is just a euphemism for ‘we wish we could ignore SEC regulations.’” PX 506.112

<https://twitter.com/bgarlinghouse/status/971815090109337602?s=20>

1030. On May 12, 2018, a member of Ripple’s communications team emailed Ripple personnel who would be attending “Blockchain Week,” an industry event in New York City, and advised the recipients to study a document called “Key Messages, FAQ and Fast Facts” that was linked to the email. PX 19 (Zagone Tr.) at 173:3-174:10; 178:13-180:7; PX 88 at 0441722-23, 073593.

1031. Ripple’s “Key Messages, FAQ and Fast Facts” document contained a section called “SEC/security conversation” in which Ripple stated: “Ultimately, this will be up to the SEC to decide,” “it’s not a new question,” and presented reasons why Ripple “continue[s] to believe XRP should not be classified as a security.” PX 88 at 073598.

1032. Ripple intended the “Key Messages, FAQ and Fast Facts” document to provide guidance for its personnel attending the Blockchain Week event how to discuss the securities classification issue. PX 19 (Zagone Tr.) at 183:15-184:6.

1033. In June 2018, at a panel discussion in Japan, in response to Gary Gensler stating his view that XRP was a security, a Ripple employee responded with a Ripple “talking point” that only the SEC could decide whether XRP or any other digital asset was a security. PX 255 at 0909079; PX 19 (Zagone Tr.) at 209:19-211:14.

- a. Long prepared Garlinghouse prior to press appearances with talking points, drafted by counsel, on the topic of XRP’s status under the securities laws. PX 17 (Long Dep. Tr.) at 271:4-276:22.
- b. In November 2018, following Garlinghouse’s instructions, Zagone did not use the “it’s up to the SEC to decide whether XRP is a security” talking point when he appeared at a panel discussion with Hinman. PX 19 (Zagone Dep. Tr.) at 217:16-218:11

1034. On April 13, 2018, the SEC’s Division of Enforcement sent Ripple’s attorneys a letter referencing an inquiry into Ripple and requesting that Ripple preserve documents, including those relating to Ripple’s offers and sales of XRP and any analysis by Ripple regarding the application of the U.S. securities laws to offers and sales of XRP. PX 256.

1035. By May 2, 2018, Ripple had retained Andrew Ceresney, former SEC Enforcement Director, to represent Ripple in the Division of Enforcement’s investigation. PX 505.

1036. Zagone was aware that at the conclusion of an investigation, the SEC’s Enforcement Division can recommend to the SEC that it take enforcement action. PX 19 (Zagone Tr.) at 187:16-188:14.

1037. After receiving notice of an inquiry or investigation by the SEC's Division of Enforcement, an entity should have heightened awareness that its conduct may violate the securities laws and that it could become the subject of an enforcement action. PX 238 at 27.

1038. On or about June 8, 2018, the P.R. Agency sent Zagone an email noting that a second proposed class action had been filed against Ripple alleging that XRP tokens are securities and stating: "Widespread doubt surrounding cryptocurrency regulation has hindered trading, as lawmakers prepare to crack down on the space...Several U.S. regulators from the SEC, the CFTC, and the Financial Industry Regulatory Authority are releasing cryptocurrency guidelines and investigating fraudulent activity in the space. Coverage notes that these regulatory clampdowns have reduced trading volumes and volatility." PX 257 at 0915756-57; PX 19 (Zagone Tr.) at 200:5-22.

1039. Between 2018 and 2020, after the SEC enforcement staff began investigating Ripple, then-Director of Corporation Finance, Bill Hinman, participated in approximately four meetings and additional telephone calls with Ripple representatives. PX 258 (Hinman Tr.) at 371:8-19, 375:15-376:11).

1040. The Ripple representatives who met with Hinman about the staff's investigation included attorneys Andrew Ceresney, the former director of the SEC's Division of Enforcement, and Meredith Cross, the former director of the SEC's Division of Corporation Finance. *Id.* at 371:8-372:17.

1041. Defendant Garlinghouse also attended certain of the meetings between Hinman and Ripple representatives. *Id.* at 371:8-372:17.

1042. In Hinman's meetings with Ceresney and Cross, Hinman told them that Hinman viewed XRP to be a security and that he viewed Ripple's XRP offerings as a problem under the federal securities laws. *Id.* at 380:1-21.

1043. In Hinman's meetings with Ceresney and Cross, Hinman told them that in order to become compliant with the federal securities laws, Ripple needed to stop publicly offering XRP on an unregistered basis and without restrictions. *Id.* at 95:9-96:5; 374:9-20, 380:1-21.

1044. In Hinman's meetings with Ceresney and Cross, Hinman told them that in order to become compliant with the federal securities laws, Ripple needed to stop publicly selling XRP or to register its XRP sales. *Id.* at 415:6-416:12.

1045. Garlinghouse admits that in approximately September 2019, SEC staff informed Ripple that SEC staff was likely to conclude that it viewed Ripple's offers and sales of XRP as securities transactions. PX 86 (Garlinghouse RFA Responses) No. 221.

K. Defendants Took Affirmative Steps to Avoid Section 5's Requirements.

1046. By July 2018, Ripple had retained lobbying firms to influence Congress on how to classify cryptocurrencies. PX 2 (Larsen Tr.) at 333:3-23; PX 19 (Zagone Tr.) at 51:22-52:8, 284:11-289:4; PX 259 at 0733074.

1047. In August 2018, Garlinghouse and Zagone held meetings in Washington DC with members of the United States Senate and House of Representatives, and their staffs, in which they attempted to resolve the "regulatory uncertainty" of XRP and share Ripple's view that XRP was not a security. PX 19 (Zagone Tr.) at 244:21-246:15, 249:6-16, 267:9-268:2; PX 260 at 0431296-97.

1048. In September 2018, Garlinghouse held meetings in Washington DC with various government officials including members of Congress and the Trump administration. PX 19 (Zagone Tr.) at 254:12-255:17; PX 261 at 0431104-06).

1049. For one of the meetings Garlinghouse attended, Ripple's objectives included to help shape legislation with suggestions that would "keep Ripple outside security classification" and to

advocate against legislation that would have classified digital assets such as XRP as securities. PX 261 at 0431105; PX 19 (Zagone Tr.) at 259:6-262:4.

1050. On October 19, 2018, Garlinghouse sent an email in which he stated: “We have decided that as a next step in our goal to have the SEC proactively say something, that we should get meetings with each of them...One down (Clayton) and four to go!” PX 262; PX 19 (Zagone Tr.) at 263:3-19, 270:16-21.

1051. In November 2018, Zagone and Garlinghouse discussed working with lobbyists in an effort to have a senator closely aligned with Ripple’s views ask SEC Chair Clayton questions about XRP’s classification at an upcoming senate committee hearing. PX 19 (Zagone Tr.) at 290:5-292:13; PX 263.

1052. By early 2019, Garlinghouse had personally met with then-Chair Clayton and three other Commissioners. PX 81 (Garlinghouse Dep. Tr.) at 46:16-47:2, 52:5-53:15, 55:4-25; PX 19 (Zagone Tr.) at 273:18-275:19; PX 264.

1053. Ripple and Garlinghouse admit that no one from the SEC ever said that the SEC did not view Ripple’s or Garlinghouse’s XRP offers and sales as securities transactions. PX 86 (Garlinghouse RFA Responses) Nos. 216-219; PX 81 (Garlinghouse Dep. Tr.) at 43:9-45:2.

1054. Ripple understood that after Garlinghouse’s meetings with the SEC commissioners, the SEC could ultimately decide that it considered XRP to be a security. PX 19 (Zagone Tr.) at 278:11-15.

1055. Over 90% of Ripple’s sales of XRP from 2013 to 2020 occurred starting in 2017. PX 45 (Ferrante Decl.) Ex. 3.

L. Larsen Aided and Abetted Ripple’s Violations of Section 5.

(i) Larsen Knew That XRP Sales Funded Ripple’s Operations.

1056. Larsen knew that, at least “in some early presentations to investors in Ripple,” Ripple told them that sales of XRP could be used to pay for Ripple’s operations. PX 2 (Larsen Tr.) at 199:16–201:17.

1057. Larsen knew that Ripple used XRP sales to pay for Ripple’s operations at least “from time to time.” PX 2 (Larsen Tr.) at 201:13-17.

1058. It was “common knowledge” inside of Ripple that “most[]” of Ripple’s revenue came from XRP sales. PX 20 (Vias Inv. Tr.) at 164:16-165:6.

1059. During an interview on or about April 14, 2014, published online, Larsen stated that Ripple was “keeping 25% of...XRP...to cover the bills here.” PX 350 at 7.

1060. On approximately December 21, 2017, Larsen received an email attaching a document entitled “2018 Ripple Annual Plan,” which showed that Ripple received over [REDACTED] of its total revenue from XRP sales for each of the first three quarters of 2017 and that XRP sales were projected to make up at least [REDACTED] of Ripple’s projected total revenues for the fourth quarter of 2017 and each quarter of 2018. PX 346 at 1, 7 (email and attachment sent to [REDACTED] distribution list); PX 81 (Garlinghouse Dep. Tr.) at 312:9-17 (Larsen received emails to the [REDACTED] email distribution list).

(ii) Larsen Knew That XRP Was Being Offered and Sold as an Investment in Ripple’s Efforts.

1061. Larsen knew that “speculation...was a big use case” in the market in the early days of XRP. PX 2 (Larsen Tr.) at 270:12-21.

1062. In April 2013, Larsen was copied on an email from a Ripple co-founder to a public relation firms, and the email noted that Ripple “will gain value as the ripples [XRP] increase in value.” PX 362.

1063. On or about October 8, 2013, Larsen received an email attaching a draft article noting that an investor was “stocking up on ripple [XRP] while it’s still less than a penny apiece.” PX 356 at 1, 9.

1064. Larsen “hope[d]” and “believe[d]” that, at least in 2013, XRP buyers were purchasing XRP for “long-term speculation purposes.” PX 2 (Larsen Tr.) at 226:1-6.

1065. In a February 2014 interview, Larsen explained that one of Ripple’s “key roles is making sure that we distribute [XRP] as broadly and in a way that adds as much utility and liquidity as we possibly can,” that “our incentives are very well aligned,” and “that for Ripple Labs to do well we have to do a very good job in protecting the value of XRP.” PX 503.01 at 22:9-15.

1066. In an email to Larsen in March 2014, a Ripple board member noted that the company was “betting the farm on appreciation of XRP.” PX 363.

1067. In an April 2014 email, Phil Rapoport told Larsen: “I suspect that most Ripple users are currently depositing money, buying XRP, then waiting for the price to rise.” PX 353.

1068. In an email dated June 3, 2014, Larsen described XRP holders as “including many early believers in Ripple.” PX 108.

1069. In July 2014, Larsen pitched XRP to a prospective purchaser, noted that Ripple was “in the process of putting together a block purchase” of XRP for “some hedge fund investors,” noted that Ripple’s thinking behind the “discount/lockup” was to “reward investors,” said that Ripple “view[ed]” XRP as “pretty undervalued,” and noted that, if the purchaser “prefer[red] not have any lock-up period, we are happy to do a spot transaction.” PX 58.

1070. In a November 2014 email, an XRP purchaser told Larsen: “When we bought XRP at .0037,the TEAM is what we bet on.” PX 360.

1071. In an email dated July 2, 2016, titled “Ripple’s June Investor and Advisor Update,” Larsen noted that Ripple could “sell and custody XRP for institutional investors and financial institutions in New York.” PX 354.

1072. In an email chain dated February 2017, Larsen told one person, who described himself in an email to Larsen as an “early investor in XRP,” that “[m]ost volume in the space is speculation in advance of enterprise and eventually consumer flows.” PX 359; PX 2 (Larsen Tr.) at 227:2-12, 231:11-21; PX 448 (Larsen RFA Responses) No. 234.

1073. In an email in March 2017, Larsen asked whether it “would be a constructive suggestion” to “advocate” to “increase the nominal price [of XRP] with a decrease in the nominal supply.” PX 351.

1074. On or about December 13, 2017, Larsen instructed GSR, by email, to “try a constructive increase” after GSR informed Larsen of an increased interest in the crypto market and recommended that Larsen “tactically increase XRP sales.” PX 358; PX 26 (█████ Tr.) at 204:14-206:16.

1075. On June 4, 2018, an investor referred to his “personal investments, including Ripple,” in an email to Larsen and wrote: “I...re-iterate that I remain VERY long XRP.” PX 355.

1076. In August 2020, commenting on a 10% increase in the price of XRP, Larsen noted in an email, “Got to love those rallies!” PX 352.

(iii) Larsen’s Sales of His Own XRP

1077. When Larsen sold his own XRP through GSR, he did not make any attempt to figure out who purchased the XRP from him. PX 2 (Larsen Tr.) at 88:3-89:5.

1078. For at least his sales of XRP through GSR, Larsen never made any attempt to figure out the reason why an XRP purchaser purchased XRP and does not believe that GSR knows that information, either. PX 2 (Larsen Tr.) at 89:13-23.

1079. It was “impossible” for Larsen to know what a foreign entity that purchased his XRP would do with the XRP. PX 2 (Larsen Tr.) at 153:15-25; PX 26 (████ Tr.) at 150:22-25 (GSR did not know who was buying the XRP they sold on behalf of Larsen).

1080. Larsen never restricted his sales of XRP only to purchasers who would have a “use” for XRP. PX 2 (Larsen Tr.) at 149:16-21.

1081. Larsen never restricted his sales of XRP only to purchasers who wished to use XRP as a medium of exchange, as a “store value,” or “as a unit of account.” PX 2 (Larsen Tr.) at 149:23–150:14; PX 26 (████ Tr.) at 161:11-14.

1082. Larsen never restricted his sales of XRP only to purchasers who would use XRP in cross-border payments. PX 2 (Larsen Tr.) at 150:16-20; PX 26 (████ Tr.) at 161:15-17.

1083. When GSR executed trades on Larsen’s behalf, Larsen never restricted the amount of his XRP that GSR could sell. PX 26 (████ Tr.) at 161:7-10.

1084. Larsen did not instruct GSR to restrict sales of Larsen’s XRP only to purchasers who would sell it to banks or other financial institutions. PX 26 (████ Tr.) at 161:18-21.

1085. Larsen did not instruct GSR to restrict sales of Larsen’s XRP only to purchasers who were money transmitters. PX 26 (████ Tr.) at 161:22-25.

1086. Larsen never took any steps to restrict U.S.-based purchasers from buying the XRP he was selling, including on non-U.S. based crypto exchanges. PX 2 (Larsen Tr.) at 88:13–89:5, 94:24–95:3, 103:3-6.

1087. Larsen took no steps to restrict his sales of XRP to foreign purchasers. PX 2 (Larsen Tr.) at 88:22–89:5.

1088. Larsen took no steps to restrict a foreign purchaser who purchased his XRP from reselling the XRP to a U.S. purchaser. PX 2 (Larsen Tr.) at 94:24–95:3.

1089. Larsen never instructed GSR to sell or not to sell his XRP on any particular digital asset platform. PX 2 (Larsen Tr.) at 95:5-12.

1090. Larsen did not know which digital asset platform GSR used to sell his XRP. PX 2 (Larsen Tr.) at 95:17–96:9.

1091. Larsen never instructed GSR to limit the sale of his XRP to digital asset platforms that prohibited U.S. purchasers. PX 2 (Larsen Tr.) at 103:3-6.

1092. Larsen did not know whether the digital platforms on which GSR sold his XRP restricted those XRP purchasers from reselling to U.S. persons. PX 19 (Larsen Tr.) at 103:22–105:3.

1093. GSR had “no way of knowing” whether the XRP that it sold on a foreign platform was sold to a U.S. person. PX 26 (████ Tr.) at 156:17-21.

1094. GSR could not restrict the XRP it sold from being sold to a U.S. person. PX 26 (████ Tr.) at 156:23–157:7.

(iv) Larsen Took Steps to Substantially Assist Ripple’s Unregistered Offers and Sales of XRP.

1095. In at least 2013, as Ripple’s CEO, Larsen approved Ripple’s sales of XRP, delegated it to a team member with proper authority to do that, or took the transaction to Ripple’s board if the transaction was significant enough. PX 2 (Larsen Tr.) at 219:5–220:23.

1096. As Ripple’s CEO, Larsen had the authority to decide whether Ripple would sell XRP to any particular individual or entity and approved such sales. PX 2 (Larsen Tr.) at 219:25–220:24.

1097. While he was Ripple’s CEO, Larsen approved over-the-counter sales of XRP. PX 2 (Larsen Tr.) at 358:13–359:4; PX 10 (Rapoport Tr.) at 253:8-16; PX 14 (Griffin Dep. Tr.) at 175:5-22 (one such approval); PX 367 (email approval).

1098. While he was Ripple's CEO, Larsen approved at least some institutional sales of XRP. PX 368 (Larsen email approving XRP sale to institutional investor in 2014); PX 369 (email in which both Garlinghouse and Larsen approve XRP sale to institutional investor in 2016).

1099. As a member of the XRP Sales Committee, Larsen (with others) approved sales of XRP even after he was no longer Ripple's CEO. PX 46 (March 2017 email).

1100. Larsen approved sales of his own XRP. PX 370 (approving sales of his own XRP "to meet the enormous demand" in May 2017).

1101. In at least October 2013, Larsen was involved in discussions about a "distribution strategy" "to lose XRP to the market." PX 344.

1102. Larsen participated in efforts to get XRP listed on exchanges. PX 2 (Larsen Tr.) at 391:19-392:7, 394:17-395:14; PX 372 (Dec. 2015 Griffin email describing Larsen's direction to Griffin to "reach out to discuss the possibility of listing XRP" on Bitstamp exchange); PX 373 (March 2016 Griffin email describing efforts to have XRP listed on Bitstamp exchange); PX 374 (Oct. 2016 email noting Larsen's and a Ripple employee's meeting with Coincheck exchange); PX 375 (Dec. 2017 email from Larsen describing efforts to have XRP listed on Japanese exchanges); PX 448 (Larsen RFA Response) Nos. 110-111.

1103. Larsen authorized the use of XRP as incentive compensation for Ripple employees. PX 3 (Griffin Tr.) at 185:4-23 (Larsen and Griffin negotiated Griffin's bonus award of [REDACTED] XRP in 2013 and 2014); PX 377 (approving [REDACTED] units of XRP to Garlinghouse in December 2016); PX 215 at 1, 5 (Ripple's Board of Directors, including Larsen, authorizing "an XRP plan under which employees, non-employee directors and consultants of the Company may receive grants of XRP or XRP unit bonus awards").

1104. Larsen participated in efforts to stop the price of XRP from decreasing. PX 381; PX 382; PX 26 (█ Tr.) at 195:21-201:3.

1105. Larsen participated in and authorized efforts to protect XRP's liquidity and price by imposing resale restrictions on XRP. PX 383 at 4 § 1.7.

1106. Larsen participated in and authorized efforts to create investment vehicles for XRP while approving deals with institutional buyers that included lockups. PX 2 (Larsen Tr.) at 360:3-361:23, 365:19-24.

1107. At least while he was Ripple's executive chairman, Larsen had "immense influence" and, if he had come to Garlinghouse and said "there should be a registration statement filed" for XRP sales, Garlinghouse and Ripple likely "would have gotten behind that and made it happen." PX 81 (Garlinghouse Dep. Tr.) at 198:4-199:5.

1108. Larsen sold his XRP at least in part to reduce the market's fears associated with Ripple's founders' large holdings of XRP. PX 2 (Larsen Tr.) at 92:20-93:17.

1109. Larsen timed his sales to minimize the impact on the XRP market. PX 2 (Larsen Tr.) at 71:22-72:11, 72:21-76:20.

1110. Larsen told one marketing firm: "Apple's finance app...hasn't updated a XRP story in 25 weeks!...Seems like a big opening for [a marketing firm] to feed XRP news!" PX 391; PX 2 (Larsen Tr.) at 301:24-302:3, 302:18-25, 304:21-305:12.

1111. For the more than five years between September 1, 2015, and December 22, 2020, Larsen was outside the U.S. for only approximately 120 days. PX 393 (Defendant Christian Larsen's Responses and Objections to the SEC's First Set of Interrogatories) at 7-8; PX 2 (Larsen Tr.) at 157:2-16.

1112. Larsen managed most of his sales of XRP through an account with U.S.-based Bitstamp U.S.A. (“Bitstamp”). PX 394 at 5, 7-9, 17-64.

1113. Larsen received XRP sale proceeds back in U.S. dollars from his Bitstamp account, and then withdrew those funds from his Bitstamp account to his U.S.-based bank accounts. PX 394 at 5, 7-9, 17-64.

1114. Larsen knew that Ripple never filed a registration statement in connection with any offers or sales of XRP. PX 448 (Larsen RFA Responses) Nos. 64, 65.

(v) Larsen’s February 2014 Public Interview

1115. In February 2014, Larsen gave an interview streamed on YouTube, in which he stated: “[W]e could have chosen to have a mining system. But our belief is it would be better to actually funnel that money back into Ripple Labs, keep Ripple Labs well funded so we can keep hiring incredible cryptographers and engineers that can, you know, increasingly improve the protocol. That’s actually good for everybody.” PX 503.01 at 17:23-18:3.

1116. In the same interview, Larsen acknowledged that “we don’t have the requirement to have to reimburse validators, transaction validators, with new XRP.” PX 503.01 at 17:14-18.

1117. In the same interview, Larsen stated: “[W]e’ve been incenting market makers with XRP forgivable loans. It’s essentially the vehicle that we’re currently using. But we feel that does is that incents, say, bit currency traders, high-frequency traders to actually be active market makers on Ripple. That provides liquid markets. That’s good for everybody. Gives them an incentive in the long-term success of the network.” PX 503.01 at 18:8-14.

(vi) Larsen’s Tweets

1118. In April 2013, Larsen tweeted “#Ripple is what happens when money finally meets the internet.” PX 506.002.

1119. In September 2014, Larsen tweeted: “Thank you @Sibos and @Innotribe for the opportunity to speak about @Ripple and the Future of Money!” PX 506.017.

1120. In April 2015, Larsen tweeted: “Thanks @Chris_Skinner for interviewing me about @Ripple and @RippleLabs for The Finanser .” PX 506.019.

1121. In April 2015, Larsen tweeted: “CTO of @RippleLabs Stefan Thomas will be speaking at @WIRED’s upcoming event on money, banking and finance.” PX 506.020.

1122. In February 2016, Larsen tweeted: “Ripple and XRP can save banks +40% today in liquidity and operational costs, and up to 60% long term.” PX 506.024; PX 505.025.

1123. In February 2016, Larsen tweeted: “Ripple’s core technology is a powerful infrastructure solution that reduces risk and costs in asset settlement.” PX 506.026.

1124. In June 2016, Larsen tweeted: “We believe in a multi-ledger #IoV (@interledger) and XRP remains central to our strategy.” PX 506.036.

1125. In June 2016, Larsen tweeted: “Got to talk with the Bloomberg Advantage about #InternetofValue and recent @Ripple news. bloomberg.com/news/audio/201...” PX 506.037.

M. Garlinghouse Aided and Abetted Ripple’s Violations of Section 5.

(i) Garlinghouse Knew That XRP Was Being Offered and Sold as part of a Common Enterprise with Ripple.

1126. Shortly after joining Ripple in 2015, Garlinghouse learned that Ripple owned billions of units of XRP. PX 81 (Garlinghouse Dep. Tr.) at 31:13-18, 33:20-23.

1127. In 2015, shortly after joining Ripple, Garlinghouse learned that Ripple was selling its XRP and relying on its XRP sales to fund its operations. PX 36 (Garlinghouse Inv. Tr.) at 83:16-84:8, 85:6-13; PX 81 (Garlinghouse Dep. Tr.) 330:1-6, 336:12-17; PX 86 (Garlinghouse RFA Responses) No. 22; PX 201 (Garlinghouse Ans.) ¶ 1.

1128. Garlinghouse knew in 2015 that Ripple's XRP sales represented 80% to 90% of its total revenue, and he knew that percentage grew larger over the following years. PX 36 (Garlinghouse Inv. Tr.) at 86:22-87:6.

1129. By no later than 2017, Garlinghouse understood that Ripple's XRP holdings were a significant asset for Ripple. PX 81 (Garlinghouse Dep. Tr.) at 34:7-10.

1130. On or around August 31, 2018, a Ripple employee sent Garlinghouse an email saying that Ripple's valuation was "almost exclusively driven by XRP's value and that is the company's north star." PX 396.

1131. Garlinghouse knew that all units of XRP were fungible and "effectively indistinguishable" from one another such that an increase in the price of XRP applied to all units (other than "slight[]" price differences at times between exchanges). PX 81 (Garlinghouse Dep. Tr.) at 337:4-338:17.

1132. Garlinghouse approved using XRP as incentive compensation for himself and other Ripple employees. PX 73; PX 74; PX 75; PX 81 (Garlinghouse Dep. Tr.) at 339:17-340:19.

(ii) Garlinghouse Knew or Recklessly Disregarded that XRP Was Being Offered and Sold as an Investment in Ripple's Efforts.

1133. Garlinghouse understood that people "might choose to speculate in XRP." PX 81 (Garlinghouse Dep. Tr.) at 2-13.

1134. Garlinghouse admits that, on a number of occasions, he publicly stated that he did not look at XRP's price over the course of the next three days or weeks but, rather, three to five years and that he was "interested in long-term success of the XRP markets." PX 81 (Garlinghouse Dep. Tr.) at 436:22-437:16, 437:22-438:8.

1135. In June 2015, Garlinghouse wrote in an email: "It's not clear to me...how one would reasonably discern (through an online process) between a speculator and a consumer." PX 399.

1136. As Garlinghouse admits, one of his goals for 2017 was “to increase speculation in the market for XRP.” PX 81 (Garlinghouse Dep. Tr.) at 388:21-389:5.

1137. In January 2017, Garlinghouse told an XRP purchaser: “As you know, XRP had a good year in 2016 - with significant increases in price and volume - which in turn has increased investor interest.” PX 515.

1138. In March 2017, after an investor expressed frustration with the XRP buying process and suggested that Ripple “make XRP very easy to buy,” “keep it simple and focus on what makes xrp EXCITING,” and focus on “liquidity,” Garlinghouse explained: “This former Yahoo, AOL exec is making progress. I respect that it may not be happening as fast as you’d like – and that it may have taken longer than you would like. FWIW, I’ve been personally buying XRP in Jan and Feb (and earlier in March). You are not alone in your expectations.” PX 65; PX 81 (Garlinghouse Dep. Tr.) at 378:6-8, 378:23-379:12.

1139. On or about April 4, 2017, Garlinghouse said in a recorded speech at an internal “All Hands Meeting” that “[t]he work we’re doing is very sound” and that, while he did not “want to measure our success by the [price] gyrations here, make no mistake about it, the rally on XRP is awesome for us.” PX 408 at 37:8-13.

1140. Garlinghouse knew that Ripple needed speculative trading in XRP to build the “flywheel” for Ripple’s products because “speculative and market trading volume” in XRP could drive liquidity, and he sent an email on that point in April 2017. PX 81 (Garlinghouse Dep. Tr.) at 369:1–371:23; PX 66.

1141. In May 2017, in an email to Larsen, Garlinghouse said: “I am pleased to report that interest in Ripple (both from customers and investors) is as strong as ever.” PX 404; PX 81 (Garlinghouse Dep. Tr.) at 385:21-387:6 (acknowledging he wrote the email).

1142. In June 2017, when asked to explain “what drives the staggering appreciation and/or volatility” in the “cryptocurrency markets,” Garlinghouse replied in an email: “For XRP specifically...as Ripple has done well in announcing customers - that has driven market interest in buying XRP as a speculative investment.” PX 114.

1143. In September 2017, a Ripple employee told Garlinghouse in an email: “‘How to buy XRP’ has been the most common type of request, and has grown through the year as an overall piece of the pie” in terms of customer support inquiries Ripple received. PX 402.

1144. In a November 2017 recorded interview with CNBC, Garlinghouse noted: “On a personal basis,...I’m also long XRP.” PX 503.06 at 13:18-21.

1145. In a December 2017 interview with Bloomberg News, the interviewer asked Garlinghouse: “Are you personally invested in XRP? With this run-up, are you taking profits on that investment, if you have one....?” and Garlinghouse answered: “I’m long XRP. I’m very, very long XRP as a percentage of my personal, you know, balance sheet.” PX 506.119 at 3:9-16.

1146. In a December 2017 email to Ripple’s board of directors, Garlinghouse told them: “This week, and even since I saw you, has been extraordinary! The price of XRP is up ~200% since Monday. [T]rading volumes have exceeded \$6 billion over the past couple of days and with XRP’s market cap at ~\$75 billion, Ripple is the most valuable private company in Silicon Valley behind Uber. Uh, wow!.... XRP’s rise over the course of this year signals market expectations of our company. All eyes are on us and it’s more important now than ever that we execute.... [Y]ou kindly offered to help us spread the word and to arm you with our key messages.... [W]e will not waste the strong tailwinds we have going into 2018. It’s go time!” PX 407.

1147. In December 2017, Garlinghouse told Ripple employees in a recorded meeting: “[E]very time the price of XRP goes up, the expectations on everyone in this room go up. The

expectations on me go up. The expectations that everyone has about what Ripple is trying to do goes up.... We've got to invest in the pieces to make sure that we're in a position to deliver on those high expectations." PX 406 at 3:5-4:20.

1148. In a March 2018 Digital Ventures video-recorded interview, Garlinghouse acknowledged that, with respect to XRP's price, "some of the runup you were describing that happened last December, I think was in part driven because XRP was kind of unknown." PX 503.11 at 18:10-12.

1149. In June 2018, in a video-recorded interview at Money2020, Garlinghouse noted: "Clearly, you have speculative interest in what people are doing across the XRP ecosystem and others.... So, we think about, 'How do we enable liquidity, working with market makers, bringing institutions to bear, to really get that...five year... For – well, it benefits from both institutional capital as well as the speculator...that participates." PX 503.16 at 13:17-14:9.

1150. In June 2019, Garlinghouse was told that "[t]he speculative use case can't be ignored given it's the primary use for XRP today and it's the source of liquidity for XRP." PX 400.

1151. In an October 2019 speech, Garlinghouse acknowledged: "[T]here's two things I think you're asking there. One is more of an investment question of, you know, are people speculating on digital assets. I mean, the question.... Yeah, 100 percent people are.... [Y]ou know, I have said this publicly before, I think 99.9 percent of all crypto trading today is just speculation." PX 503.18 at 9:11-21.

1152. On or about October 19, 2019, in an interview with Chris Brummer and sponsored by Fintech Beat, Garlinghouse stated: "You know, on XRP itself, and really I would say crypto broadly, I have publicly said before, you know, 99.9 percent of all crypto trading is speculation

today. The amount of real utility you're talking about is very, very low and I -- that's true within the XRP community, as well." PX 503.25 at 22:12-17.

1153. In June 2020, Garlinghouse was told by an institutional investor that one reason "why Ripple should care about" an XRP trust is: "The more XRP that flows into the trust, the more XRP is taken off the market permanently. And it gives retirees and other smaller retail investors, or larger investors who don't want to handle crypto directly, a way to purchase XRP." PX 401.

1154. Garlinghouse attempted to drive speculative interest in XRP, while tying price increases to Ripple's efforts. PX 36 (Garlinghouse Inv. Tr.) at 214:25-215:2, 215:14-19; PX 51.

(iii) Garlinghouse's Sales of XRP

1155. Garlinghouse does not know who bought the XRP that he or Ripple sold. PX 81 (Garlinghouse Dep. Tr.) at 22:20-23, 24:4-12, 24:24-25:15, 485:11-486:12; PX 36 (Garlinghouse Inv. Tr.) at 251:4-252:9; PX 503.24 at 5:23-6:9 .

1156. RESERVED.

1157. RESERVED.

1158. Garlinghouse anonymously sold XRP on exchanges. PX 86 (Garlinghouse RFA Responses) Nos. 176-77.

1159. For the more than 3.5 years between April 25, 2017, and December 22, 2020, Garlinghouse was outside the U.S. for only approximately 187 days. PX 454 (Garlinghouse Responses to Interrogatories) at 6-9.

1160. Garlinghouse was in the U.S. when he sold at least some of his XRP. PX 86 (Garlinghouse RFA Responses) Nos. 188; PX 201 (Garlinghouse Ans.) ¶ 185.

1161. Garlinghouse was in the U.S. at least some of the time when he directed GSR to sell his XRP. PX 86 (Garlinghouse RFA Responses) No. 189.

1162. All of Garlinghouse's XRP were sold for U.S. Dollars through an account at U.S.-based Bitstamp, and all proceeds were pooled in his account at a U.S. bank. PX 81 (Garlinghouse Dep. Tr.) at 180:5-19; PX 438 (noting Garlinghouse's account at Bitstamp USA was not a foreign account); PX 394 at 5-7 (Garlinghouse noting deposit of XRP received from Ripple to sell through Bitstamp); id. at 8-9 (showing over 1,350 logins to account from the U.S. compared to approximately 100 logins from abroad); id. at 11-42 (showing withdrawals from U.S.-based Bitstamp USA account to U.S.-based [REDACTED] account from 2017 through 2020).

1163. Until at least approximately August or September 2020, Garlinghouse never instructed GSR not to sell his XRP to U.S. persons. PX 81 (Garlinghouse Dep. Tr.) at 487:2-24.

1164. Garlinghouse has not taken any steps to restrict resales of his XRP to U.S. purchasers. PX 81 (Garlinghouse Dep. Tr.) at 487:2-24.

(iv) Garlinghouse Understood that XRP Could Be Considered a Security.

1165. In March 2017, Ripple CCO O'Gorman told Garlinghouse in an email that "XRP certainly has some 'securities-type' characteristics." PX 516; PX 86 (Garlinghouse RFA Responses) No. 207.

1166. In December 2017, Ripple's P.R. Agency notified Garlinghouse by email of a recent statement by the then-SEC Chairman that "[m]erely calling a token a 'utility' token or structuring it to provide some utility does not prevent the token" from being a security, given that it "had been a concern to have XRP considered a security." PX 517.

1167. Garlinghouse knew that XRP was not legal tender because, as he explained in a public interview in March 2018: "I almost never use the expression cryptocurrency. And the reason is today, these aren't currencies.... I can't buy coffee with XRP. I'm using Starbucks as a random

example. Currencies, traditionally, are something you can use to transact efficiently and broadly.” PX 503.13 at 24:16-23.

1168. In July 2018, Garlinghouse told employees: “[W]e kind of put our head in the sand on a regulatory basis. I think I’m I’ve [sic] been largely guilty of that. And I think, in retrospect, that was a mistake and we’re kind of playing catch up.” PX 410 at 7:22-8:5.

1169. Garlinghouse knew, at least as of May 2017, that “the IRS doesn’t accept XRP.” PX 411 at 5.

(v) Garlinghouse Recklessly Disregarded his Legal Obligation to Preserve Documents.

1170. In the summer of 2017, Garlinghouse installed a messaging application called “Signal” on the primary phone that he used at Ripple, and he understood at that time that “messages on Signal can be set to disappear.” PX 81 (Garlinghouse Dep. Tr.) at 127:3-20, 127:25-128:8, 129:16-130:1.

1171. In the spring of 2018, Garlinghouse received and read document preservation notices advising him of his obligations to preserve documents in response to the SEC’s investigation of Ripple. PX 81 (Garlinghouse Dep. Tr.) at 38:21-39:3, 119:15-120:4, 120:17-22.

1172. Garlinghouse communicated on Signal via phone calls and messages. PX 81 (Garlinghouse Dep. Tr.) at 136:18-137:7.

1173. Garlinghouse scheduled his Signal messages to automatically delete “at the one-week interval.” PX 81 (Garlinghouse Dep. Tr.) at 130:2-8, 132:3-5; PX 413.

1174. Garlinghouse also used the desktop version of Signal on his primary work computer at Ripple. PX 81 (Garlinghouse Dep. Tr.) at 146:6-18.

1175. Garlinghouse “certainly expect[s] that at some point [he’s] said, [‘]Hey, you know, send me a message on Signal,’” to Ripple employees. PX 81 (Garlinghouse Dep. Tr.) at 139:12-23; see also PX 412.

1176. Garlinghouse communicated with Ripple employees about XRP on Signal. PX 81 (Garlinghouse Dep. Tr.) at 135:11-138:18, 140:15-22.

1177. Garlinghouse used Signal to communicate with Ripple employees (including Larsen and Long) about XRP and other Ripple business. PX 81 (Garlinghouse Dep. Tr.) at 132:11-13, 133:11-12, 135:11-138:18, 140:15-22, 166:18-21, 167:19-168:22, 169:11-170:25, 171:23-173:12; PX 413.

1178. Garlinghouse used Signal to communicate with XRP holders and other third parties about XRP. PX 81 (Garlinghouse Dep. Tr.) at 134:11-18, 141:20-142:25, 162:20-163:3.

1179. Garlinghouse used Signal to discuss “the logistics of administering movement of XRP” with the market maker GSR. PX 81 (Garlinghouse Dep. Tr.) at 139:5-10, 140:4-22, 164:10-15.

1180. There is no way to know how many of Garlinghouse’s Signal communications relating to XRP were destroyed and therefore not produced to the SEC. PX 81 (Garlinghouse Dep. Tr.) at 130:2-8, 132:3-5.

(vi) Garlinghouse Took Steps to Substantially Assist Ripple’s Unregistered Offers and Sales of XRP.

1181. Garlinghouse directed Ripple employees to disclose information he thought would be “noteworthy to the XRP market.” PX 414; see also PX 81 (Garlinghouse Dep. Tr.) at 203:16-204:4, 206:23-207:2, 236:9-237:7; PX 415; PX 416.

1182. In January 2018, Garlinghouse sent an email to “Ripple Shareholders and Advisors” and wrote:

We made great progress in demonstrating that the idea of using XRP to solve a liquidity problem is more than just an idea. We productized this with xRapid in Q3 and announced our first customer in early Q4. Some of you may have seen last week we were able to announce MoneyGram is also piloting xRapid. This has been tremendous validation for something that was [s]imply an idea not that many months ago.

PX 518.

1183. Garlinghouse directed efforts to “combat more aggressively” media stories that Ripple viewed as detrimental, including appearing on CNN to respond to rumors that Ripple was “dumping” XRP, and giving directives to “amplify” positive messages. PX 418; PX 25 (Madigan Tr.) at 297:5-10, 298:16-299:10; PX 419.

1184. Garlinghouse reviewed and provided feedback on the draft XRP Markets Reports. PX 21 (Vias Dep. Tr.) at 186:11-15; PX 420.

1185. Garlinghouse was a member of the “XRP Sales Committee,” which approved “XRP distribution and sales decisions” at Ripple. PX 520 at 8.

1186. As Ripple’s CEO, Garlinghouse was involved in decisions relating to Ripple’s sales of XRP and approved XRP sales. PX 86 (Garlinghouse RFA Responses) Nos. 17, 35; PX 81 (Garlinghouse Dep. Tr.) at 330:1-6.

1187. On July 1, 2019, Ron Will emailed Garlinghouse seeking his “email approval to move forward with the 10 bps of CryptoCompare volume.” PX 421.

1188. Garlinghouse knew that no registration statement has ever been in effect as to any of Ripple’s distributions of XRP. PX 86 (Garlinghouse RFA Responses) No. 7, 8; PX 201 (Garlinghouse Ans.) ¶ 222.

1189. Garlinghouse knew that some XRP purchasers were buying XRP in exchange for fiat currency. PX 86 (Garlinghouse RFA Responses) No. 21; PX 201 (Garlinghouse Ans.) ¶¶ 1, 76, 77, 80; PX 81 (Garlinghouse Dep. Tr.) at 330:1-3.

1190. Garlinghouse had weekly meetings with several other Ripple employees “to discuss XRP sales targets...and what’s going on in the markets and whether or not” they “need[ed] to change up [their] execution strategy.” PX 422 at 7:18-21.

1191. In December 2017, Garlinghouse described a meeting he had as follows:

Yesterday, yes, it was yesterday, I was in Philadelphia with Miguel who’s floating around here somewhere. And we were talking to one of the founders of one of the biggest trading firms in the United States called [REDACTED] They do a lot of Bitcoin trading. They don’t currently trade XRP. We’re going to talk to them about trading XRP.

PX 423 (Tr. of Audio and Video Recording of Q4 2017 All Hands Meeting on Dec. 12, 2017) at 22:4-22:10.

1192. In December 2017, Garlinghouse told Ripple employees:

But if you just look at the last three months, XRP has underperformed the market... It matters that we stay in the lead pack. If people perceive us as an after run and kind of dropping down the ranking if you will as measured by market capital, I do worry about that. I think that is, you know, the perception of Ripple, the brand perception of Ripple shifts a little bit. And so I want to make sure we’re doing things as we did yesterday where we did a great post on insights comparing the performance of XRP with the performance of other digital assets and we want to make sure we are telling our story and getting people excited about our story. So it’s not to say that I don’t care and, you know, I don’t want everybody to all of a sudden shift to the short term. I want to stay long term-focused, however I also want to make sure we don’t, you know, ignore that what’s happened on a day-to-day basis.

PX 423 (Tr. of Audio and Video Recording of Q4 2017 All Hands Meeting on Dec. 12, 2017) at 24:20-25:23.

1193. In April 2016, Garlinghouse approved the sale of XRP to an institutional investor, described as an “institutional reseller,” at a discount and with certain lockup restrictions and stated that he was “good with it.” PX 367.

1194. In or about September 2018, Garlinghouse signed a purchase agreement with a Japanese institutional investor for the purchase of XRP. PX 425.

1195. In June 2020, when XRP's price was "underperforming," Long understood Garlinghouse's words at a meeting to be asking employees "to get to the heart of why XRP is underperforming" and to "develop a strategy to address it from both the supply side and the demand side." PX 426.

1196. Garlinghouse participated in efforts to list XRP on Coinbase. PX 81 (Garlinghouse Dep. Tr.) at 306:10-18.

1197. In August 2016, Garlinghouse emailed the president of a digital asset trading platform and asked to meet with him because Ripple was "looking for credible exchanges to list XRP where we can send market makers and trading desks." PX 434.

1198. Garlinghouse also negotiated deals as to XRP with other entities in the digital asset space and encouraged incentive programs such as payments and "minimum monthly guarantees" in exchange for listings on trading platforms. PX 86 (Garlinghouse RFA Responses) Nos. 159, 168; PX 435; PX 436.

1199. In December 2017, Garlinghouse met with the chief operating officer of Coinbase, a trading platform, about the possibility of Coinbase listing XRP. PX 437.

1200. In January 2018, Garlinghouse sent a monthly update email to shareholders and investors and told them: "XRP is now listed on more than 50 exchanges globally." PX 522 (emphasis in original).

(vii) Garlinghouse's Tweets

1201. In March 2017, Garlinghouse tweeted "#Bitcoin-ers wanted to have their cake and eat it too! SEC sees through it. Can't pick and choose when you want to be pro/anti regulation." PX 506.055 [March 13, 2017 Tweet].

1202. Garlinghouse tweeted that “#Bitcoin-ers wanted to have their cake and eat it too! SEC sees through it. Can’t pick and choose when you want to be pro/anti regulation.” PX 506.057 [March 31, 2017 Tweet].

1203. Garlinghouse Retweeted @miguelvias, “1)Guys is this #fakenews if it doesn’t include the TOP digital asset in market cap growth over past 4 weeks??? #XRP @iamjosephyoung @xrpchat”. PX 506.061 [March 31, 2017 Tweet].

1204. Garlinghouse Retweeted @miguelvias, “2) #XRP up nearly 500% year to date. April volume already \$700 million! <https://cointelegraph.com/news/investors-whomissed-bitcoin-rally-go-for-ether-monero-litecoin> #xrpthestandard @xrpchat”. PX 506.062 [April 10, 2017 Tweet].

1205. Garlinghouse tweeted “We’re putting the FUD to rest @Ripple is placing 55B #XRP into escrow to show our commitment to stable supply <http://www.coindesk.com/ripple-pledgeslock-14-billion-xrp-cryptocurrency/>.” PX 506.076 [May 16, 2017 Tweet].

1206. Garlinghouse also tweeted “What appears to have finally tipped bitcoin below the 50% mark is the 24% surge of XRP, the token of the Ripple network. <https://twitter.com/laurashin/status/8643808764>. PX 506.083 [May 16, 2017 Tweet].

1207. In June 2017, Garlinghouse tweeted “#XRP has remained fairly steady while some digital assets plummet this week. Shows it matters to have real-world use cases #xrpthestandard<https://twitter.com/paulvigna/status/879430998202748928>.” PX 506.095 [June 26, 2017 Tweet].

1208. In November 2017, Garlinghouse tweeted “Holiday, schmoliday! Team Ripple is absolutely committed to building XRP liquidity - and in that context... Very excited to share that @HUOBI_Pro (3rd largest exchange in China) is listing XRP / BTC tomorrow.” PX 506.098 [November 22, 2017 Tweet].

1209. In December 2017, Garlinghouse tweeted “Latest from @theinformation nails it. Real utility is critical”...specific vertical use cases like bank-tobank cross border payment rails where specific crypto currencies make a lot of sense...Ripple’s XRP currency has a clear and valuable place in the ...market. <https://twitter.com/lessin/status/937764280077709313>. PX 506.099 [December 4, 2017 Tweet].

1210. Garlinghouse also tweeted “Anyone surprised by the latest SEC action isn’t paying attention. I sound like a broken record, but regulators aren’t going away + other fraudulent ICOs will have a similar fate <https://twitter.com/paulvigna/status/937699590840647680>.” PX 506.100 [December 4, 2017 Tweet].

1211. Garlinghouse also tweeted “Boom! 55B \$XRP now in escrow. Good for supply predictability and trusted, healthy \$XRP markets. Glad to finally let this #cryptokitty out of the bag! <https://ripple.com/insights/rippleescrows-55-billion-xrp-for-supply-predictability/>.” PX 506.101 [December 7, 2017 Tweet].

1212. Garlinghouse tweeted “1/ a healthy \$XRP market and healthy \$XRP ecosystem is CRITICALLY important to me. And it is indeed a primary driver. Long-term price will reflect success driving institutional use of \$XRP - by far the most efficient #cryptocurrency - to solve a multi-trillion dollar problem.” PX 506.103 [December 12, 2017 Tweet].

1213. Garlinghouse tweeted “I applaud Jay Clayton and the SEC for making the risks of ICOs clearer in their statements. ‘Many of these assertions appear to elevate form over substance.’ Or as I like to say - it’s all sizzle, no steak! https://twitter.com/SEC_News/status/940344492791615491.” PX 506.104 [December 12, 2017 Tweet].

1214. Garlinghouse tweeted “4/ we are also starting to proactively work with others in the industry to leverage \$XRP given its incredible performance. @Ripple will continue to focus on #payments - but you will see more examples of others leveraging \$XRP in other verticals.” PX 506.14, <https://twitter.com/bgarlinghouse/status/940806146092396547?s=20>.

1215. “Thanks for your support @yoshitaka_kitao! [retweeting] 北尾吉孝 @yoshitaka_kitao Dec 12, 2017 Wow, XRP at all time high! Forget about bitcoin, we’re all in on XRP! https://twitter.com/yoshitaka_kitao/status/940785785925709829” PX 506.106 [December 12, 2017 Tweet].

1216. \$XRP is now on 50 exchanges around the world! Team Ripple will continue to champion additional listings to foster a vibrant and healthy XRP ecosystem and help deepen liquidity across fiat currencies. <https://ripple.com/insights/xrp-nowavailable-on-50-exchanges-worldwide/>” PX 506.107 [December 21, 2017 Tweet].

1217. I’ll let the headline speak for itself. \$xrp bloomberg.com Bitcoin is So 2017 as Ripple Soars at Year End: Chart The rout in cryptocurrencies isn’t sinking all boats. Ripple, which uses a network of nodes that includes financial insitutions [sic] to validate transactions, has sustaine... <https://t.co/RqtnvZWd0d>.” PX 506.109 [December 22, 2017 Tweet].

1218. Was a pleasure speaking with @paulvigna about \$XRP and @Ripple “ this is a fair and balanced piece I can get behind.<https://twitter.com/WSJ/status/949320212079370241>.” PX 506.111 [December 22, 2017 Tweet].

1219. In January 2018, Garlinghouse tweeted “A good read on why fostering a healthy \$XRP ecosystem is a top priority at @Ripple. <https://www.cnbc.com/2018/01/16/why-ripple-is-not-cashing-out-its-xrp-holdings.html>. PX 506.113 [January 17, 2018 Tweet].

1220. In March 2018, Garlinghouse tweeted “In context of yesterday’s SEC statement(s), I hear some in crypto talk about the current ‘regulatory uncertainty.’ What’s uncertain?! SEC’s statements have been consistent and clear. ‘Regulatory uncertainty’ is just a euphemism for ‘we wish we could ignore SEC regulations.’” PX 506. 114 [March 8, 2018 Tweet].

1221. In July 2019, Garlinghouse tweeted “In this nascent industry, we need to be transparent and urge others to do the same. As a responsible stakeholder of XRP, @Ripple is confronting this issue by updating the benchmark for market volume and reducing future sales of XRP. <https://twitter.com/Ripple/status/1154061110217064448>.” PX 506.117 [July 24, 2019 Tweet].

N. Defendants’ Public Statements as Summarized in PX 500 to PX 509

1222. As indicated in PX 500.01, Defendants, Ripple’s representatives, or Ripple’s employees made the statements listed in PX 500.01 on or about the dates listed for each such statement in PX 500.01.

1223. As indicated in PX 500.03, Defendants, Ripple’s representatives, or Ripple’s employees made the statements listed in PX 500.03 on or about the dates listed for each such statement in PX 500.03.

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1226. As indicated in PX 500.06, Defendants, Ripple’s representatives, or Ripple’s employees made the statements listed in PX 500.06 on or about the dates listed for each such statement in PX 500.06.

- a. Ripple stated on its website: “Ripple Labs sells XRP to fund its operations and promote the network. This allows Ripple Labs to have a spectacularly skilled team to develop [sic] and promote the Ripple protocol and network.” PX 500.06.

1227. As indicated in PX 500.07, Defendants, Ripple’s representatives, or Ripple’s employees made the statements listed in PX 500.07 on or about the dates listed for each such statement in PX 500.07.

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1308. As indicated in PX 504.12, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.12 on or about the dates listed for each such statement in PX 504.12.

1309. As indicated in PX 504.13, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.13 on or about the dates listed for each such statement in PX 504.13.

1310. As indicated in PX 504.14, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.14 on or about the dates listed for each such statement in PX 504.14.

1311. As indicated in PX 504.15, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.15 on or about the dates listed for each such statement in PX 504.15.

1312. As indicated in PX 504.16, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.16 on or about the dates listed for each such statement in PX 504.16.

1313. As indicated in PX 504.17, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.17 on or about the dates listed for each such statement in PX 504.17.

1314. As indicated in PX 504.18, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.18 on or about the dates listed for each such statement in PX 504.18.

1315. As indicated in PX 504.19, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.19 on or about the dates listed for each such statement in PX 504.19.

1316. As indicated in PX 504.20, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.20 on or about the dates listed for each such statement in PX 504.20.

1317. As indicated in PX 504.21, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.21 on or about the dates listed for each such statement in PX 504.21.

1318. As indicated in PX 504.22, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.22 on or about the dates listed for each such statement in PX 504.22.

1319. As indicated in PX 504.23, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.23 on or about the dates listed for each such statement in PX 504.23.

1320. As indicated in PX 504.24, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.24 on or about the dates listed for each such statement in PX 504.24.

1321. As indicated in PX 504.25, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.25 on or about the dates listed for each such statement in PX 504.25.

1322. As indicated in PX 504.26, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.26 on or about the dates listed for each such statement in PX 504.26.

1323. As indicated in PX 504.27, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.27 on or about the dates listed for each such statement in PX 504.27.

1324. As indicated in PX 504.28, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.28 on or about the dates listed for each such statement in PX 504.28.

1325. As indicated in PX 504.29, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.29 on or about the dates listed for each such statement in PX 504.29.

1326. As indicated in PX 504.30, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.30 on or about the dates listed for each such statement in PX 504.30.

1327. As indicated in PX 504.31, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.31 on or about the dates listed for each such statement in PX 504.31.

1328. As indicated in PX 504.32, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.32 on or about the dates listed for each such statement in PX 504.32.

1329. As indicated in PX 504.33, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.33 on or about the dates listed for each such statement in PX 504.33.

1330. As indicated in PX 504.34, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.34 on or about the dates listed for each such statement in PX 504.34.

1331. As indicated in PX 504.35, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.35 on or about the dates listed for each such statement in PX 504.35.

1332. As indicated in PX 504.36, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.36 on or about the dates listed for each such statement in PX 504.36.

1333. As indicated in PX 504.37, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.37 on or about the dates listed for each such statement in PX 504.37.

1334. As indicated in PX 504.38, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.38 on or about the dates listed for each such statement in PX 504.38.

1335. As indicated in PX 504.39, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.39 on or about the dates listed for each such statement in PX 504.39.

1336. As indicated in PX 504.40, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.40 on or about the dates listed for each such statement in PX 504.40.

1337. As indicated in PX 504.41, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 504.41 on or about the dates listed for each such statement in PX 504.41.

1338. As indicated in PX 506.001, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.001 on or about the dates listed for each such statement in PX 506.001.

1339. As indicated in PX 506.002, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.002 on or about the dates listed for each such statement in PX 506.002.

1340. As indicated in PX 506.003, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.003 on or about the dates listed for each such statement in PX 506.003.

1341. As indicated in PX 506.004, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.004 on or about the dates listed for each such statement in PX 506.004.

1342. As indicated in PX 506.005, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.005 on or about the dates listed for each such statement in PX 506.005.

1343. As indicated in PX 506.006, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.006 on or about the dates listed for each such statement in PX 506.006.

1344. As indicated in PX 506.007, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.007 on or about the dates listed for each such statement in PX 506.007.

1345. As indicated in PX 506.008, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.008 on or about the dates listed for each such statement in PX 506.008.

1346. As indicated in PX 506.009, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.009 on or about the dates listed for each such statement in PX 506.009.

1347. As indicated in PX 506.010, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.010 on or about the dates listed for each such statement in PX 506.010.

1348. As indicated in PX 506.011, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.011 on or about the dates listed for each such statement in PX 506.011.

1349. As indicated in PX 506.012, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.012 on or about the dates listed for each such statement in PX 506.012.

1350. As indicated in PX 506.013, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.013 on or about the dates listed for each such statement in PX 506.013.

1351. As indicated in PX 506.014, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.014 on or about the dates listed for each such statement in PX 506.014.

1352. As indicated in PX 506.015, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.015 on or about the dates listed for each such statement in PX 506.015.

1353. As indicated in PX 506.016, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.016 on or about the dates listed for each such statement in PX 506.016.

1354. As indicated in PX 506.017, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.017 on or about the dates listed for each such statement in PX 506.017.

1355. As indicated in PX 506.018, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.018 on or about the dates listed for each such statement in PX 506.018.

1356. As indicated in PX 506.019, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.019 on or about the dates listed for each such statement in PX 506.019.

1357. As indicated in PX 506.020, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.020 on or about the dates listed for each such statement in PX 506.020.

1358. As indicated in PX 506.021, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.021 on or about the dates listed for each such statement in PX 506.021.

1359. As indicated in PX 506.022, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.022 on or about the dates listed for each such statement in PX 506.022.

1360. As indicated in PX 506.023, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.023 on or about the dates listed for each such statement in PX 506.023.

1361. As indicated in PX 506.024, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.024 on or about the dates listed for each such statement in PX 506.024.

1362. As indicated in PX 506.025, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.025 on or about the dates listed for each such statement in PX 506.025.

1363. As indicated in PX 506.026, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.026 on or about the dates listed for each such statement in PX 506.026.

1364. As indicated in PX 506.027, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.027 on or about the dates listed for each such statement in PX 506.027.

1365. As indicated in PX 506.028, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.028 on or about the dates listed for each such statement in PX 506.028.

1366. As indicated in PX 506.029, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.029 on or about the dates listed for each such statement in PX 506.029.

1367. As indicated in PX 506.030, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.030 on or about the dates listed for each such statement in PX 506.030.

1368. As indicated in PX 506.031, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.031 on or about the dates listed for each such statement in PX 506.031.

1369. As indicated in PX 506.032, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.032 on or about the dates listed for each such statement in PX 506.032.

1370. As indicated in PX 506.033, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.033 on or about the dates listed for each such statement in PX 506.033.

1371. As indicated in PX 506.034, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.034 on or about the dates listed for each such statement in PX 506.034.

1372. As indicated in PX 506.035, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.035 on or about the dates listed for each such statement in PX 506.035.

1373. As indicated in PX 506.036, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.036 on or about the dates listed for each such statement in PX 506.036.

1374. As indicated in PX 506.037, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.037 on or about the dates listed for each such statement in PX 506.037.

1375. As indicated in PX 506.038, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.038 on or about the dates listed for each such statement in PX 506.038.

1376. As indicated in PX 506.039, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.039 on or about the dates listed for each such statement in PX 506.039.

1377. As indicated in PX 506.040, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.040 on or about the dates listed for each such statement in PX 506.040.

1378. As indicated in PX 506.041, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.041 on or about the dates listed for each such statement in PX 506.041.

1379. As indicated in PX 506.042, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.042 on or about the dates listed for each such statement in PX 506.042.

1380. As indicated in PX 506.043, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.043 on or about the dates listed for each such statement in PX 506.043.

1381. As indicated in PX 506.044, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.044 on or about the dates listed for each such statement in PX 506.044.

1382. As indicated in PX 506.045, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.045 on or about the dates listed for each such statement in PX 506.045.

1383. As indicated in PX 506.046, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.046 on or about the dates listed for each such statement in PX 506.046.

1384. As indicated in PX 506.047, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.047 on or about the dates listed for each such statement in PX 506.047.

1385. As indicated in PX 506.048, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.048 on or about the dates listed for each such statement in PX 506.048.

1386. As indicated in PX 506.049, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.049 on or about the dates listed for each such statement in PX 506.049.

1387. As indicated in PX 506.050, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.050 on or about the dates listed for each such statement in PX 506.050.

1388. As indicated in PX 506.051, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.051 on or about the dates listed for each such statement in PX 506.051.

1389. As indicated in PX 506.052, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.052 on or about the dates listed for each such statement in PX 506.052.

1390. As indicated in PX 506.053, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.053 on or about the dates listed for each such statement in PX 506.053.

1391. As indicated in PX 506.054, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.054 on or about the dates listed for each such statement in PX 506.054.

1392. As indicated in PX 506.055, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.055 on or about the dates listed for each such statement in PX 506.055.

1393. As indicated in PX 506.056, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.056 on or about the dates listed for each such statement in PX 506.056.

1394. As indicated in PX 506.057, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.057 on or about the dates listed for each such statement in PX 506.057.

1395. As indicated in PX 506.058, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.058 on or about the dates listed for each such statement in PX 506.058.

1396. As indicated in PX 506.059, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.059 on or about the dates listed for each such statement in PX 506.059.

1397. As indicated in PX 506.060, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.060 on or about the dates listed for each such statement in PX 506.060.

1398. As indicated in PX 506.061, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.061 on or about the dates listed for each such statement in PX 506.061.

1399. As indicated in PX 506.062, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.062 on or about the dates listed for each such statement in PX 506.062.

1400. As indicated in PX 506.063, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.063 on or about the dates listed for each such statement in PX 506.063.

1401. As indicated in PX 506.064, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.064 on or about the dates listed for each such statement in PX 506.064.

1402. As indicated in PX 506.065, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.065 on or about the dates listed for each such statement in PX 506.065.

1403. As indicated in PX 506.066, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.066 on or about the dates listed for each such statement in PX 506.066.

1404. As indicated in PX 506.067, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.067 on or about the dates listed for each such statement in PX 506.067.

1405. As indicated in PX 506.068, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.068 on or about the dates listed for each such statement in PX 506.068.

1406. As indicated in PX 506.069, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.069 on or about the dates listed for each such statement in PX 506.069.

1407. As indicated in PX 506.070, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.070 on or about the dates listed for each such statement in PX 506.070.

1408. As indicated in PX 506.071, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.071 on or about the dates listed for each such statement in PX 506.071.

1409. As indicated in PX 506.072, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.072 on or about the dates listed for each such statement in PX 506.072.

1410. As indicated in PX 506.073, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.073 on or about the dates listed for each such statement in PX 506.073.

1411. As indicated in PX 506.074, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.074 on or about the dates listed for each such statement in PX 506.074.

1412. As indicated in PX 506.075, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.075 on or about the dates listed for each such statement in PX 506.075.

1413. As indicated in PX 506.076, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.076 on or about the dates listed for each such statement in PX 506.076.

1414. As indicated in PX 506.077, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.077 on or about the dates listed for each such statement in PX 506.077.

1415. As indicated in PX 506.078, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.078 on or about the dates listed for each such statement in PX 506.078.

1416. As indicated in PX 506.079, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.079 on or about the dates listed for each such statement in PX 506.079.

1417. As indicated in PX 506.080, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.080 on or about the dates listed for each such statement in PX 506.080.

1418. As indicated in PX 506.081, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.081 on or about the dates listed for each such statement in PX 506.081.

1419. As indicated in PX 506.082, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.082 on or about the dates listed for each such statement in PX 506.082.

1420. As indicated in PX 506.083, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.083 on or about the dates listed for each such statement in PX 506.083.

1421. As indicated in PX 506.084, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.084 on or about the dates listed for each such statement in PX 506.084.

1422. As indicated in PX 506.085, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.085 on or about the dates listed for each such statement in PX 506.085.

1423. As indicated in PX 506.086, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.086 on or about the dates listed for each such statement in PX 506.086.

1424. As indicated in PX 506.087, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.087 on or about the dates listed for each such statement in PX 506.087.

1425. As indicated in PX 506.088, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.088 on or about the dates listed for each such statement in PX 506.088.

1426. As indicated in PX 506.089, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.089 on or about the dates listed for each such statement in PX 506.089.

1427. As indicated in PX 506.090, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.090 on or about the dates listed for each such statement in PX 506.090.

1428. As indicated in PX 506.091, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.091 on or about the dates listed for each such statement in PX 506.091.

1429. As indicated in PX 506.092, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.092 on or about the dates listed for each such statement in PX 506.092.

1430. As indicated in PX 506.093, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.093 on or about the dates listed for each such statement in PX 506.093.

1431. As indicated in PX 506.094, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.094 on or about the dates listed for each such statement in PX 506.094.

1432. As indicated in PX 506.095, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.095 on or about the dates listed for each such statement in PX 506.095.

1433. As indicated in PX 506.096, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.096 on or about the dates listed for each such statement in PX 506.096.

1434. As indicated in PX 506.097, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.097 on or about the dates listed for each such statement in PX 506.097.

1435. As indicated in PX 506.0978, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.0978 on or about the dates listed for each such statement in PX 506.0978.

1436. As indicated in PX 506.099, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.099 on or about the dates listed for each such statement in PX 506.099.

1437. As indicated in PX 506.100, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.100 on or about the dates listed for each such statement in PX 506.100.

1438. As indicated in PX 506.101, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.101 on or about the dates listed for each such statement in PX 506.101.

1439. As indicated in PX 506.102, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.102 on or about the dates listed for each such statement in PX 506.102.

1440. As indicated in PX 506.103, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.103 on or about the dates listed for each such statement in PX 506.103.

1441. As indicated in PX 506.104, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.104 on or about the dates listed for each such statement in PX 506.104.

1442. As indicated in PX 506.105, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.105 on or about the dates listed for each such statement in PX 506.105.

1443. As indicated in PX 506.106, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.106 on or about the dates listed for each such statement in PX 506.106.

1444. As indicated in PX 506.107, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.107 on or about the dates listed for each such statement in PX 506.107.

1445. As indicated in PX 506.108, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.108 on or about the dates listed for each such statement in PX 506.108.

1446. As indicated in PX 506.109, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.109 on or about the dates listed for each such statement in PX 506.109.

1447. As indicated in PX 506.110, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.110 on or about the dates listed for each such statement in PX 506.110.

1448. As indicated in PX 506.111, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.111 on or about the dates listed for each such statement in PX 506.111.

1449. As indicated in PX 506.112, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.112 on or about the dates listed for each such statement in PX 506.112.

1450. As indicated in PX 506.113, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.113 on or about the dates listed for each such statement in PX 506.113.

1451. As indicated in PX 506.114, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.114 on or about the dates listed for each such statement in PX 506.114.

1452. As indicated in PX 506.115, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.115 on or about the dates listed for each such statement in PX 506.115.

1453. As indicated in PX 506.116, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.116 on or about the dates listed for each such statement in PX 506.116.

1454. As indicated in PX 506.117, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.117 on or about the dates listed for each such statement in PX 506.117.

1455. As indicated in PX 506.118, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.118 on or about the dates listed for each such statement in PX 506.118.

1456. As indicated in PX 506.119, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.119 on or about the dates listed for each such statement in PX 506.119.

1457. As indicated in PX 506.120, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.120 on or about the dates listed for each such statement in PX 506.120.

1458. As indicated in PX 506.121, Defendants, Ripple's representatives, or Ripple's employees made the statements listed in PX 506.121 on or about the dates listed for each such statement in PX 506.121.

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O. Other

1600. Defendants offered and sold XRP through interstate commerce. PX 80 (Ripple Ans.) ¶¶ 14, 392; PX 86 (Garlinghouse RFA Responses) No. 210; PX 370.

1601. Defendants never took any steps to determine whether their offers and sales of XRP were exempt. PX 86 (Garlinghouse RFA Responses) Nos. 216-17; PX 94 (Ripple RFA Responses) Nos. 706, 708-09, 711-13, 715-17, 722-23.

Dated: New York, New York
September 13, 2022

/s/ Jorge G. Tenreiro

Jorge G. Tenreiro
Jon A. Daniels
Elizabeth Goody
Pascale Guerrier
Benjamin H. Hanauer
Ladan F. Stewart
Mark R. Sylvester
Daphna A. Waxman

Attorneys for Plaintiff
SECURITIES AND EXCHANGE
COMMISSION
New York Regional Office
200 Vesey Street, Suite 400
New York, New York 10281
(212) 336-9145 (Tenreiro)
TenreiroJ@sec.gov